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NATIONAL REVIEW



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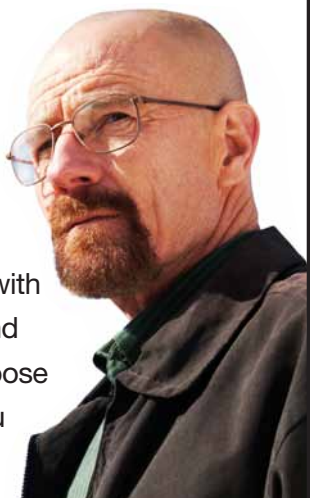
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Sins and **Commandments** in Language

I was thinking that I was the only one bothered by the all-encompassing use of “inappropriate” to avoid an honest confession of sin. Even my pastor, a straight-talking preacher, succumbed to referring to a particular sinful action as an “inappropriate” one. Kevin D. Williamson wrote just about everything that I had been thinking with excellent examples (“The Inappropriate ‘Inappropriate,’” July 15). Part of this misuse is prompted by the modern humanist view that there is no such thing as sin—wickedness, evil words or actions prohibited by the Ten Commandments. But the Ten Commandments have themselves become inappropriate, and this is one reason for our moral decline.

*Theodore Siek
Pittsburgh, Pa.*

Grand Old **Anabaptists**

I was taken aback when I came across your description of Anabaptists as “tolerated oddball fanatics” (The Week, August 5). Although a Jew myself, and therefore not up to date on intra-Christian animosities, I live in a part of the world heavily populated by Mennonites, and I can assure you that they are for the most part decent, hardworking citizens, and almost exclusively conservative Republicans.

*Don Feldman
Lancaster, Pa.*

Seven (7) Chin-ups

(In re “Sensitive SEALs,” August 5) In 1977, I attended parachute school at Fort Benning, Ga. The most serious challenge at jump school—aside from stepping out of a perfectly good airplane at an 1,100-foot altitude—was the upper-body-strength requirement, including the ability to do seven chin-ups and masses of push-ups. The ostensible reason was that steering a WWII T-10 parachute requires you to pull hard on the risers; the real reason was to ensure that Airborne are an elite. Men were routinely washed out of jump school for not being able to do the chin-ups. By the third week, so many male officers had washed out that, although I was a junior captain, I was the senior Army officer remaining and had become the class commander. The Army had just opened parachute training to women, and my class included about 13 enlisted women and four or five female officers. Since women could not meet the upper-body-strength requirement, instead of chin-ups, the women “chinned” lying on an inclined board, and none of the Black Hats (cadre) bothered them much about push-ups. Nevertheless, all of the enlisted women had voluntarily dropped out during the first week, and all but one officer voluntarily quit by the end of the second week. After the fifth and last jump I stood on the drop zone, watching our female officer drift off the drop zone and into the trees: She was too light and not strong enough to steer the parachute. She was also designated the Class Officer Honor Graduate.

*Terence Zuber
Major, Infantry (Retired)
Akron, Ohio*

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The Week

■ We're traditionalists on sex scandals: They ought to include sex.

■ In July, President Obama gave another in his long series of speeches that constitute “a pivot” to the economy. Most of his proposals—raising the minimum wage, adding to the plethora of federal job-training programs, spending on public works—could have been proposed in the 1930s (and were, and didn't work then, either), while a few—subsidizing high-speed Internet connections, dumping more money on subsidies for politically connected energy firms—assume contemporary technology but are equally frivolous. The U.S. economy labors under the twin yoke of the regulatory state and the entitlement state, under a complex and wasteful tax system, a hostile public sector, and a mediocre primary-education system. The president has not proposed reforming these; he has proposed making them worse by entrenching the bureaucracy in the economy, by creating an enormous and unpredictable new regulatory-entitlement hybrid (Obamacare), and by standing in the schoolhouse door against reformers. Another speech won't repair that damage.

■ A few conservative senators and organizations are urging Republicans to refuse to support any bill that keeps government operations funded unless it also defunds Obamacare. If all Republicans held firm in that position and Democrats refused to accept the demand, the government would shut down. Republicans will not, however, hold firm in that position, because it is plain to most of them that they would be picking a fight on ground advantageous to President Obama. The public dislikes his health-care law, but there is no reason to think it would like the idea of shutting down the government over it. Republican leaders are right to reject the shutdown strategy but need to come up with their own strategy on health care. That strategy has to include a plan to bring market forces, at long last, to bear on health care, and it has to terminate in winning some elections—so they can get about the business of shutting down Obamacare.

■ President Obama claimed that “phony scandals” were distracting Washington, D.C., from doing the people's work, which is to say passing his agenda. His Treasury secretary, Jack Lew, put the IRS scandal in that category, in particular “the attempt to keep finding that evidence” linking the misconduct to Obama's appointees. But we don't know what those appointees did: Lew himself, whom Obama charged with investigating the entire matter, admitted that he has not asked what role William Wilkins, the chief counsel of the IRS, played. Lew also claimed that progressive groups were just as likely to be targeted for improper scrutiny as conservative ones—a claim that has long been debunked. There is nothing phony about this scandal, although the word seems to apply to Mr. Lew's investigation.



■ Anthony Weiner's latest sexting scandal is as horrible as a recurring dream. Fortunately it should be gone after the Democratic mayoral primary on September 10 disposes of him, one hopes permanently. His wife, Huma Abedin, will remain, however, since she is also the protégé of future presidential candidate Hillary Clinton and, until this sad affair, a likely fixture in a third Clinton administration. Will the Clintons, unwilling to have the world reminded of their own troubles, cast her aside? Or will she endure, as a model of political loyalty *über alles*? Huma Abedin is both long-suffering and the willing partner of a wretched, damaged man. She and he have a long road of repair to walk, if they choose to follow it—away from the public eye.

■ Liz Cheney, daughter of former vice president Dick Cheney, has announced that she's running for the U.S. Senate seat currently occupied by Mike Enzi (R., Wyo.). There's been complaining over her decision to jump into the race: Enzi is a conservative, and why waste the Republican party's energy on what many see as a pointless primary fight? But Enzi has often seemed asleep at the wheel during his 16 years in office—despite representing a state red enough to support the imaginative and gutsy conservatism of a Mike Lee or Ted Cruz. At the moment Enzi's big cause is Internet taxation. Wyoming Republicans

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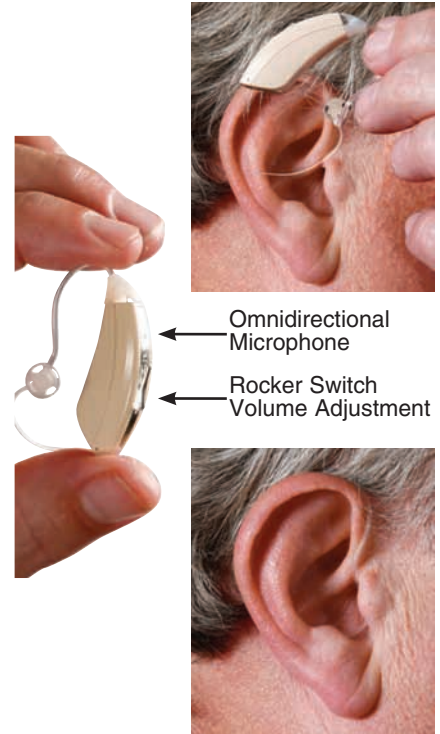
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should be open to an upgrade, and we look forward to seeing if Cheney can persuasively make the case to primary voters that she represents one.

■ Representative Steve King (R., Iowa), a leading opponent of the immigration bill, said that for every illegal-immigrant valetorian there are 100 illegal-immigrant drug smugglers. Republicans from Speaker John Boehner down denounced the comment. We suspect that Representative King was reacting against the tendency of the bill's supporters to romanticize illegal immigrants, all of whom, to hear the paeans, are held to be hard-working and God-fearing. Sweeping negative generalizations, though, are just as untrue and more offensive. It is right to resist the legalization of illegal immigrants so long as we have reason to fear that it will draw more illegal immigrants here. It is wrong to resist it on the ground that illegal immigrants are, as a class, bad people; and it is politically foolish, as well, to make it appear that it is that ground on which opponents of legalization stand.

■ One day after the City of Detroit filed for the largest municipal bankruptcy in American history, Michigan circuit judge Rosemarie Aquilina attempted to put a halt to the restructuring. Among her justifications? "It's . . . not honoring the president, who took [the auto companies] out of bankruptcy." She also scrawled at the end of her declaratory motion, "A copy of this order shall be transmitted to President Obama." Her legal reasoning was actually more sound: There is a case to be made that the Michigan state constitution prohibits the breaking of existing pension and compensation contracts, which the Motor City must do to have any hope of revival. Regardless, federal bankruptcy code, which is intended to honor creditors rather than the president, will win out. Chapter 9 of the law provides for municipal bankruptcies, but much new ground will be broken in Detroit's reorganization—which, if there are dividends in Detroit's sad tale, will make it clearer how similarly burdened cities might have to resolve their situations, whether or not President Obama is watching.



■ Attorney General Eric Holder was one of those who decried the Supreme Court's decision to strike down part of the Voting Rights Act. His latest actions in response to that decision, though, show just how overdone the liberal lamentations over the alleged demise of the act have been. The act required several jurisdictions—most of them

southern states—to obtain "preclearance" from the Justice Department before making any change, however picayune, to voting procedures. The Supreme Court said that jurisdictions could not be singled out for this extraordinary treatment based solely on voting statistics from 40 years ago. Holder is now using another section of the Voting Rights Act against Texas (which shows that the act is not dead after all). This time, how-

ever, he will have to prove that Texas has intentionally deprived people of their voting rights based on race by, for example, requiring voters to show IDs. Texas will no longer be guilty until proven innocent. That is the right standard, and we suspect Holder's suit will not be able to clear it.

■ Democrats are terribly upset with Republicans in North Carolina: Having won the state house, the state senate, and the governorship, along with nine of thirteen U.S. House seats in the last election, Republicans in Raleigh are acting like they run the place. That has meant a legislative agenda including a new voter-identification law requiring the presentation of a state-issued photo ID (such as a driver's license); a five-year delay before the automatic reinstatement of felons' voting rights; an expanded education-voucher program; and an end to the often-abused innovation of same-day registration, a favorite tool of professional vote-wranglers who bribe the homeless and other vulnerable people on Election Day. The state also has adopted new regulations on abortion, such as requiring clinics to have admitting privileges at nearby hospitals. In 2009, President Obama explained the reasoning behind his overstuffed stimulus plan to Republican critics: "I won." Raleigh and the U.S. Congress are full of Republicans who can say the same thing.

■ Planned Parenthood Gulf Coast, which operates a chain of abortion mills, announced in July that it was paying \$1.4 million to the state of Texas to settle claims that it fraudulently billed the state, under Medicaid for procedures that an investigation found were not covered or were entirely fictitious. Planned Parenthood's executives were defiant, calling the allegations in the complaint "baseless" and the settlement "a practical matter" to head off expensive litigation. Texas attorney general Greg Abbott's office sees things differently, saying that Planned Parenthood Gulf Coast intentionally falsified medical records in order to bilk the state out of Medicaid payments. The allegations are not an aberration. The Alliance Defending Freedom, which compiles data on state and federal audits of Planned Parenthood affiliates, reports that eleven other state audits have found nearly \$8 million in improper Medicaid payments made to the organizations. "Planned Parenthood's primary motivation appears not to be to provide quality health-care to patients who seek family planning services, but rather to enhance its profits," the ADF report concludes. The federal government, which finances Planned Parenthood to the tune of \$542 million a year, seems only too happy to assist.

■ Mitch Daniels, whom some Republicans would like to see president of something more than Purdue University, is under fire from academic critics over e-mails recently published by the Associated Press in which Daniels, then governor of Indiana, objected strongly to the use of Howard Zinn's left-wing fantasy, *A People's History of the United States*, in Indiana public-school curricula. The plainspoken governor called the book "anti-American" and "crap," in what was supposed to be a private e-mail. Language niceties aside, Governor Daniels is entirely right about Zinn's work, the defects of which are apparent not only to conservative critics but to liberals as well: Arthur Schlesinger called Zinn "a polemicist, not a historian," while Harvard's Oscar Handlin described the book as a "de-

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ranged fairy tale.” It takes fictional episodes for fact, misrepresents everything from slavery in the early colonies to the Tet Offensive, omits such historical events as the Gettysburg address, the D-Day invasion, and the Wright Brothers’ first flight, and presents what can only be called “a biased account.” Who said that? Howard Zinn. Governor Daniels was right to take him at his word and act accordingly.

■ Sometimes fact really is more astonishing than fiction. Less than a week after a jury found him not guilty of second-degree

murder, George Zimmerman emerged from hiding to rescue a family of four trapped inside their SUV, which had rolled over on the highway just a mile from Zimmerman’s neighborhood. According to police, Zimmerman was one of two men who came to the family’s aid before police arrived, and the pair managed to get the family out of the vehicle without any injuries. The following week the family canceled their planned news conference, citing fears of “blowback.” Strangely, neither the rescue nor the canceled news conference merited a mention on Al Sharpton’s MSNBC show.

Smoking Out Leviathan

THROUGHOUT most of his life, William F. Buckley Jr. was a strong supporter of the freedom to smoke. In a 2002 article, he wrote, “Perhaps tomorrow’s rules will say: Okay to smoke if you are located in a park, or desert, and the weathervane shows no wind at all, and no population centers to leeward. Then light up. And sing Land of the Free!” Late in life, however, after his wife, Pat, died, “technically from an infection, but manifestly, at least in part, from a body weakened by 60 years of nonstop smoking,” he admitted that, given the chance, he would forbid smoking in America, even against his “secular commitment to the free marketplace.”

As with so many other things, Americans have gradually caught up with Buckley’s view. Cigarette smoking has grown increasingly unpopular. Fully 22 percent of Americans support an outright ban on smoking, according to a recent Gallup poll.

While policymakers have stopped short of that in the U.S., they have found numerous other ways to attack smoking. The most common method, of course, is taxation, which has increased sharply over the past few decades. Supply-side Republicans have at times been willing to increase taxes on smoking in the belief that this will reduce that destructive behavior, and because the revenue allows reduction of other marginal tax rates. Democrats, who often seem to believe that marginal tax rates can be increased with impunity, have also been willing to punish smokers. Accordingly, there has been bipartisan anti-smoking sentiment to generate constant upward pressure on cigarette taxes.

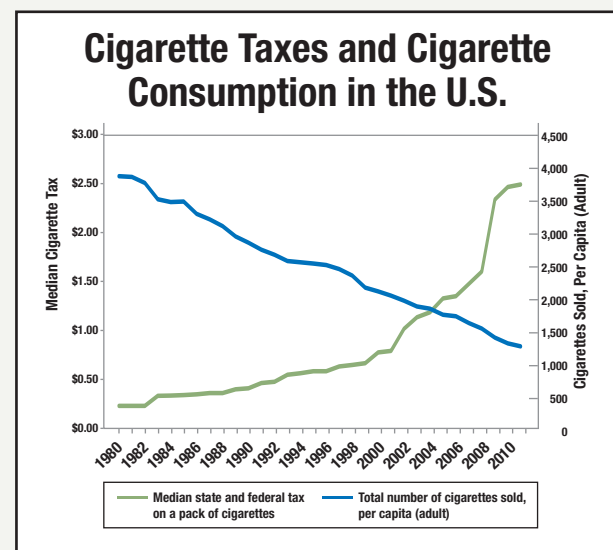
The nearby chart compares cigarette-tax rates in the U.S. since 1980 with the consumption of cigarettes. The chart suggests that supply-side economics does a great job of describing recent patterns in smoking behavior: As taxes have made smoking more expensive, smoking has declined sharply.

This correlation is not, of course, proof. More convincing empirical evidence was recently presented in a study by economists Philip DeCicca, Donald Kenkel, Alan Mathios, Yoon Jeong-Shin, and Jae-Young Lim. The

authors traced the impact of cigarette taxes on decisions to start or quit smoking. Since these taxes vary widely from state to state, and from year to year, the authors had an enormous amount of data to analyze in search of precise estimates of the impact of cigarette taxes on cigarette consumption.

Prior to the study, the conventional wisdom was that high taxes reduce cigarette smoking by discouraging young people, who rarely have much money, from acquiring the habit. The authors turned that conventional wisdom on its head: They found that cigarette taxes had virtually no effect on the likelihood that a young person would begin to smoke, but a very large and significant effect on the likelihood that a smoker would quit smoking. Intuitively, this makes sense, given that most youths probably start smoking with a borrowed cigarette, while the cumulative costs of high cigarette taxes would be a burden on a regular consumer. Love of a good smoke and the craving of nicotine may be ineradicable, but unwillingness to feed Leviathan’s ravenous appetite appears to loosen their grip.

—KEVIN A. HASSETT



SOURCES: AMERICAN LUNG SOCIETY; CENTERS FOR DISEASE CONTROL; AND *THE TAX BURDEN ON TOBACCO*, BY ORZECZOWSKI & WALKER

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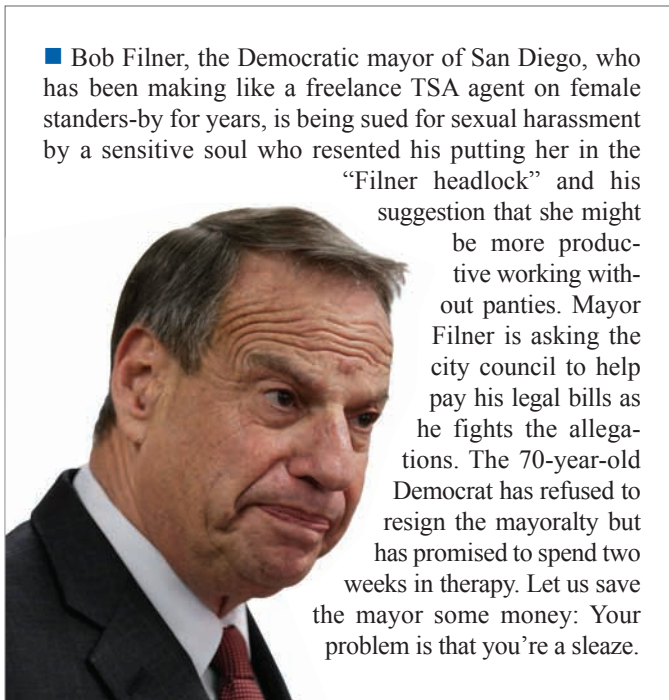
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■ Bob Filner, the Democratic mayor of San Diego, who has been making like a freelance TSA agent on female standers-by for years, is being sued for sexual harassment by a sensitive soul who resented his putting her in the “Filner headlock” and his suggestion that she might be more productive working without panties. Mayor Filner is asking the city council to help pay his legal bills as he fights the allegations. The 70-year-old Democrat has refused to resign the mayoralty but has promised to spend two weeks in therapy. Let us save the mayor some money: Your problem is that you’re a sleaze.

■ The administration leaked that it was considering Lawrence Summers to run the Federal Reserve and promptly met a hail of objections. He is too much a partisan Democrat, said Republicans. Some Democrats said he was too abrasive and arrogant to run a collegial institution. They prefer Janet Yellen, who is already on the Fed’s board of governors. Our own preference among the inhabitants of Obamaworld would be the president’s former economic adviser Christina Romer. She has advocated a simple rule to guide the Fed: It should keep nominal spending growing at a constant rate. A rule-bound and thus predictable Fed would be a vast improvement over what we have now and would have the added benefit of making personnel decisions matter less in the future.

■ A bipartisan effort is under way in Congress to prevent a sharp increase in the interest rate charged on student loans. The good news is that the compromise legislation would link interest rates to Treasury rates, meaning that they would be tied to something other than political expedience. The bad news is that this keeps Congress in the business of setting interest rates and the academic-political complex in the business of loan-sharking. Student loans are a lot like public-sector pensions: They are a way for educators and administrators to increase their compensation without forcing any immediate pain on taxpayers, who might complain, or on tuition payers, who might look elsewhere under a more pay-as-you-go model. Students in this equation are merely a passthrough for federal dollars bound for the pockets of the swollen administrative ranks of the American campus. Student loans are a main enabler of soaring tuitions, and have left former college students with more loan debt than credit-card debt: in excess of \$1 trillion, with default rates climbing. That is another financial crisis waiting to happen—with an explicit federal guarantee.

■ “Ho Chi Minh was actually inspired by the U.S. Declaration of Independence and Constitution and the words of

Thomas Jefferson,” President Obama told reporters after meeting with Vietnamese president Truong Tan Sang in the White House last month. Ho, the Communist leader of North Vietnam until his death in 1969, was responsible for the deaths of hundreds of thousands of Vietnamese civilians and more than 50,000 U.S. soldiers who fought in the 1960s and ’70s to defend South Vietnam against the tyranny of his regime. Dissenting “landlords,” intellectuals, and villagers who resisted exorbitant taxation were executed for “errors of thought,” a crime for which Jefferson might have meted out a more lenient punishment. Before the U.S. succeeded the French in the effort to defeat Ho, he hoped America would support him. According to some accounts, in his early enthusiasm he did memorize some of the Declaration, committing to heart the words, though obviously not the spirit. During his lifetime, he proved to be a magnet to useful idiots, who helped him fight his American enemy in the press if not on the ground. Posthumously, he has inspired the U.S. president to join their ranks. In trying too hard to be gracious to the president of present-day Vietnam, President Obama disrespected U.S. veterans of the Vietnam War.

■ Lieutenant Colonel Kenneth Reyes came under fire from the Military Religious Freedom Foundation recently for posting a column titled “No Atheists in Foxholes: Chaplains Gave All in World War II” in the “Chaplain’s Corner” of the website of an Air Force base. Serving at the Joint Base Elmendorf-Richardson in Alaska, Reyes was ordered to take down his column because it allegedly offended atheist servicemen. The MRFF sent a letter to the base commander on behalf of 42 airmen complaining about the chaplain’s failure to uphold military regulations with his “anti-secular diatribe” and “faith-based hate.” Reyes’s essay, whose title was drawn from a famous utterance made by a priest during a siege in World War II and mentioned in a 1954 speech by President Eisenhower, was removed from the website after the MRFF contacted his superiors. The Foundation, apparently not content with infringing upon his First Amendment rights, is now seeking to have the Christian chaplain punished for using religious language in his religious column. The Foundation seems to have its own first commandment: “Thou shalt have no gods, period.”

■ The president has really expanded that Enemies List. It apparently includes six members of the Missouri College Republicans, who were not permitted to attend President Obama’s speech on the economy at the University of Central Missouri—because the room was at capacity, according to Secret Service. Doubtful, say the students, who watched as attendees without tickets entered the gymnasium from which they, who had tickets, had been barred. Earlier in the day the students had been protesting in a designated “public-speech zone” on campus, but they had left the protest signs behind to watch the speech. They were identifiably partisan—one wore a College Republicans shirt, and two others were in shirts emblazoned with “Don’t Tread On Me,” the Revolutionary-era phrase popular among tea partiers. So were they prohibited for their party affiliation? Perhaps they can ask when the IRS agents come for the audit.

■ All this year, Secretary of State John Kerry has been cajoling and arm-twisting to restart negotiations between Israel and the

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Palestinians. Jaw-jaw is better than war-war, according to the good old ground rule of Winston Churchill, but this is a high-risk gamble for all the players. Failure will underline that Washington's Middle East policy is naïve to the point of irrelevance. For the Palestinians, however, failure is the preferred option. Even a slender agreement with Israel would leave Mahmoud Abbas, the PLO leader, in danger of being murdered by Hamas, his Islamist arch-rival. Driven by Kerry to prove his good will, Israel's Prime Minister Netanyahu has had to pay for a place at the negotiating table by agreeing to release 104 Palestinians serving life sentences for the murders of Israeli men, women, and children. The cabinet voted in favor but could easily fall apart. Israelis are incensed that their killers get away, and the Palestinians pocket the concession without giving an inch in return. Nobody, perhaps not even Kerry, understands why the United States is determined to bring to justice those who commit acts of terror against it, but exerts pressure to set at liberty those who have been brought to justice for acts of terror against an ally.

■ China is worried about its public-sector debt, particularly that owed by local governments and by state-owned firms. One of the things Beijing is worried about is that the ingenious financiers of the Communist party do not know how much debt there really is, and so a national audit has been ordered. Growth is slowing, prices are rising for such sensitive goods as food and homes, corruption is rampant, the banks are rickety, and the government is worried about its deficit, having just instituted a cap at 3 percent of GDP. While it is tempting to sit back and enjoy whatever is Chinese for “schadenfreude” as the puffed-up PRC potentates take one in their little red shorts, the fact is that China and the United States are very closely tied economically—their problems will be our problems. For all of its vaunted and important reform in past decades, China still is suffering from the problems associated with a state-directed economy—problems that are present to a lesser degree in the United States, too. The lesson for Washington from Beijing is that the time to prepare for a crisis is not on the precipice of the crisis.

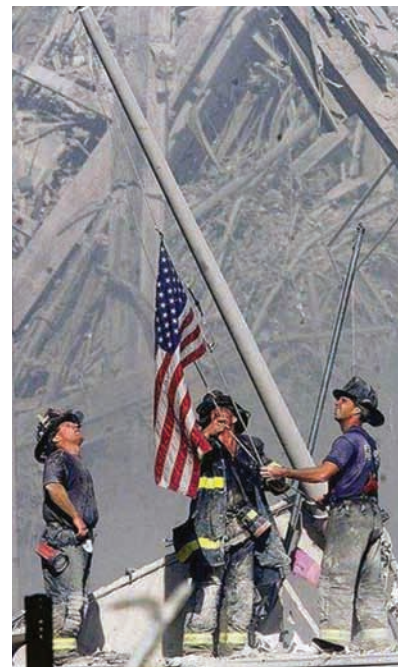
■ In July, millions of eyes turned toward London, England, where the Duke and Duchess of Cambridge awaited the birth of their first child. George Alexander Louis, otherwise known



as the “royal baby,” was born on July 22. He is now third in line to the throne, after his grandfather, Prince Charles, and his father, Prince William. “George,” which had been the most predicted name for the newborn, was the name of Queen Elizabeth's father. The independent Centre for Retail Research has predicted that the baby will be worth £243 million to the British economy by the end of August. With that sort of return on investment, perhaps it's already time for William and Kate to consider giving George a sibling?

■ Three million people thronged Rio de Janeiro's Copacabana Beach in late July for the closing event of Pope Francis's World Youth Day. It was an awe-inspiring sight. Four months into his pontificate, Francis is showing some of the rock-star charisma of the late John Paul II, but what the millions came to Rio to celebrate was not a cult of personality but a deeply counter-cultural message. The thought has long been expressed by us and our fellow defenders of religion that religion will outlive its cultured despisers; it is gratifying to see so many young people offer such vibrant evidence of the continuing vitality of faith in an age of doubt.

■ A top official at the September 11 Memorial Museum in New York, according to a new book, objected to the display of an iconic photo that depicts three ash-covered firemen raising the Stars and Stripes over the rubble of Ground Zero. The museum's “creative director,” Michael Shulan, worried that the museum would cater too much to the “rah-rah America” instinct. He explained his objection to the image by saying, “My concern is . . . that we not reduce [9/11] down to something that was too simple, and in its simplicity would actually distort the complexity of the event, the meaning of the event.” Eventually the image, along with two other similar ones, was hung in the museum after all. In the famous preface to his *History*, Livy wrote of how Rome had reached “a time when we can endure neither our national vices nor the necessary remedies,” yet he still dedicated his work to recording, “on a clear, distinct monument, every example” of early Rome for his countrymen to admire and learn from. But you know those rah-rah Romans.



■ For years, the deputy fire chief of Princeton, N.J., has been trying to construct a memorial to the victims of the September 11 terrorist attacks in his town, which saw ten of its residents killed that day. The firefighter, Roy James, finally secured a ten-foot, two-ton piece of steel from the World Trade Center's wreckage, which he hoped to erect as part of a memorial in the town center. But there's one problem: At some point, someone carved a hole in the shape of a cross into the steel beam, and

town officials now object to the piece on the grounds of separation of church and state. James, who is Jewish, said he believes the significance is not so much religious as historical, “a symbol of hope and a symbol of remembrance,” echoing the argument made by those who finally were able to install a famous cross-shaped piece of wreckage at the Ground Zero museum. Princeton officials, who profess to be worried about suits, have suggested that the beam could be arranged so that the cross is concealed by the limestone pillars with which it will be installed. Firefighters, one can safely assume, are usually a little less skittish about such issues; here’s hoping the real heroes win out.

■ Of all the narratives in all the world, the damn economists had to step into this one. In July, *Freakonomics*’s Stephen Dubner raised Michelle Obama’s blood pressure by praising the much-maligned McDonald’s—specifically, its \$1 double cheeseburger. Responding to a reader who argued that the item was the “cheapest, most nutritious and bountiful food that has ever existed in human history,” Dubner took it upon himself to investigate. Then he discussed the question with critics on his weekly podcast. What he found surprised him: On a calories-per-dollar basis, the item beats out almost all of the competition. As the *New York Post*’s Kyle Smith observed, a 2007 University of Washington survey revealed that “junk food costs as little as \$1.76 per 1,000 calories, whereas fresh veggies and the like cost more than ten times as much.” Sure, it is all very well for the well-to-do to frequent the Farmers’ Market. But if one is poor and hungry? Well, it turns out that McDonald’s isn’t so bad after all.

■ Phil Mickelson, once practically allergic to major victories, has won another: the British Open, at Muirfield on the Firth of Forth. He did so in stunning fashion, beginning the final day five strokes off the lead, shooting 66, and winning the tournament by three. Alas, victorious Mickelson seems to owe a little more than a nod to the gods: The compensation he received from his victory in Scotland has been taxed by the Scottish and U.S. authorities at a combined rate of 61 percent. (Mickelson made news last year by suggesting he may move from California to avoid its high taxes, but sports winnings are actually taxed by where they are earned, not the place of residence of the athlete, so he’s limited in what he can do.) California and Britain seem unlikely to adopt reasonable, competitive levels of taxation anytime soon, but might we suggest, at the very least, a golfer’s tax rate ought not to approach the score of his final round?

■ No good deed goes unpunished, especially in the regulatory state. That was nearly true for Robert Kennedy Jr. and his brother Max, who came under federal scrutiny for rescuing a 500-pound leatherback turtle over the Fourth of July weekend. The brothers, sons of Robert and Ethel Kennedy, paused their sailing trip in Nantucket Sound when they came across the turtle tangled in a buoy line; they spent a half-hour working the creature free, while a family member captured the rescue on video. It turns out, though, that their kindness was in violation of the Endangered Species Act, which allows only certified handlers to conduct such rescue operations. But the brothers’ good turn earned another: A spokesman for the National

Oceanic and Atmospheric Association says the pair will not face punishment.

■ Peak Oil has long been a mirage, always impending but never arriving. Still, at the turn of the millennium there was truth to in warnings about American energy dependence: Crude-oil and natural-gas production was declining fast, raising the possibility that the United States would become more—not less—reliant upon the Middle East. That is, until George Mitchell, who died in July at the age of 94, changed the equation forever. During the 1990s, Mitchell, the CEO of the Mitchell Energy & Development Company, spent almost \$6 million developing a way to extract the abundant natural gas that he knew lay beneath his home in Houston. Ten years later, he had invented hydraulic fracturing—or “fracking,” as it has come to be known. Fracking now pulls more than a third of America’s natural gas out of the ground and in two decades it will likely account for half of all natural-gas production. The American energy renaissance has many fathers, but chief among them is George Mitchell. R.I.P.



■ Virginia Johnson and her longtime collaborator, William Masters, made a great splash in the Sixties and Seventies, but no one remembers them as individuals: It was as a team of sexual researchers, and a brand name for the new frankness, Masters and Johnson, that they won notoriety. Alfred Kinsey had described what people actually did together (or what they said they did); Masters and Johnson observed them, and professed to describe what worked and what didn’t. Their prose was unreadable, and their methods minutely numerical. It was sex as engineering: building the Hoover Dam in the bedroom. Masters had the M.D.; Johnson was a thrice-married secretary and former country singer he hired because she could put women subjects at ease. During their years of working together the two became lovers, then mates, then exes. Masters died in 2001; Johnson, age 88, has now rejoined him. R.I.P.

■ Helen Thomas covered every president from JFK to Obama, for UPI, then Hearst. For most of that career she typified the category of journalist as jerk (cf. Sam Donaldson, Dan Rather), the on-camera scold-in-the-box. It is unpleasant work, but someone has to do it, especially in Republican administrations. At the end of her life she outed herself as an anti-Semite, telling a rabbi at a Jewish Heritage Day celebration at the Obama White House that Israelis should “get the hell out of Palestine,” and “go home [to] Poland, Germany.” Later that year she brought her war home, declaring in a speech that Congress, the White House, Hollywood, and Wall Street “are owned by the Zionists.” She goes to her grave laden with every award a self-regarding, left-of-center profession confers on its left-wing lifers. Dead at 92. R.I.P.

A Battle Joined

It's not quite Taft vs. Eisenhower, but the intra-conservative division over civil liberties and foreign policy has come to the fore in a way it has not in decades. In the House, nearly half the Republicans voted for an amendment to end the National Security Agency's program of tracking which phone numbers Americans are calling: a program begun under the Bush administration and supported by many of its national-security appointees. New Jersey governor Chris Christie, asked about a rising strain of libertarianism among his fellow Republicans, said that it was "dangerous" and suggested that some politicians—he was asked about Senator Rand Paul specifically—had forgotten about the victims of September 11. Senator Paul returned fire several times—for example, accusing Christie of shortchanging national defense by asking for federal money after Hurricane Sandy.

We share some of the misgivings that critics of the NSA have expressed. In particular, we think it was a mistake to envelop the program in so much secrecy. But the government ought to have the capacity to find patterns of phone activity associated with terrorism and then, with a court order, to take further action. If we need more procedural safeguards to protect innocent Americans' privacy than are currently in place, then Congress should legislate them. Abolishing the program altogether would be rash and irresponsible.

Governor Christie has gone too far in the other direction. Libertarian tendencies on national security should be tempered, not rejected. And the case for staying in Afghanistan, or for any other foreign intervention, has to be made in terms of the specific benefits and costs for Americans. The defect of foreign-policy libertarianism is that it collapses the particularities of the world into overly simple principles. An opposing generality based on compassion for the victims of terrorism is no answer at all.



Senator Paul praises Edward Snowden, who leaked the NSA program and threatens to leak more, as a "civil disobedient" akin to Martin Luther King Jr. and Henry David Thoreau. Like his father, Paul seems to embrace the illusion that the most powerful country in the world can retreat from the responsibility of shaping the global order. The crucial question, which neither Paul nor Christie has engaged, is how to use our power to promote our interests and principles—while also remembering the limits of that power.

Republicans have said that the Christie-Paul exchange is a sign of the healthy debate within their party. This self-congratulation is premature until the debate reaches a level of seriousness it has not yet found.

THE MIDDLE EAST

Egypt and the World

EGYPT is the now another country where brutal killing is commonplace. As usual, it is impossible to be sure who opened fire or whether the figure of about 100 dead in Cairo on July 27 should be higher or lower. It so happens that in Tunisia an opposition politician by the name of Mohamed Brahmi has just been shot dead by gunmen, the second such assassination in recent months. And there are also reports of 150 Syrian soldiers apparently massacred by rebels. Press photographs show that the town of Homs has been reduced to rubble at world-war level. In these and other similar horrors, Islamism is the common factor.

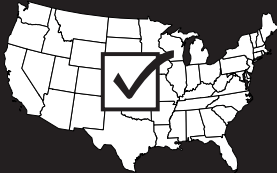
Islamism is an ideology based on the supremacy of right-thinking Muslims over wrong-thinking or heretical Muslims, and in any case over non-Muslims. For almost a century, the Muslim Brotherhood has been putting this ideology into practice in Egypt and wherever else it could reach. The Brotherhood has an elite, but it also commands a mass movement. The wave of discontent known as the Arab Spring was a perfect opportunity for exploiting its undoubted power. The Muslim Brotherhood used a skillful mixture of propaganda and demonstrations to force the previous president, Hosni Mubarak, out of office and to replace him with their man, Mohamed Morsi. That they managed to win elections lent democratic legitimacy to what in effect was an Islamist take-over.

In Egypt there is another elite and another mass movement, however, also comprising Muslims, but with political and social ambitions that have nothing to do with Islam and faith but rather with assuring the country its place in the modern world. These forces have made the army their vehicle. Morsi replaced the old guard by appointing General Abdel Fattah el-Sisi minister of defense. It was assumed that Morsi controlled Sisi and that henceforth the army would assist the Muslim Brotherhood in setting up an Islamist state. Comes the hour, comes the man: General Sisi was not prepared to do any such thing, but instead has taken Morsi and the Muslim Brotherhood elite into detention. Morsi vs. Sisi may be fought out on the streets, and the costs would then be great. What happens in Egypt afterward becomes an example for the rest of the Arab and Muslim world. The success or failure of Islamism depends in the last resort on the character of General Sisi and the decisions he takes. Never before, in all probability, has an Egyptian general had such responsibility.

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▶ **How to claim the bags of U.S. Gov't issued coins:** Read the important information below. Then call the National Claim Hotline at: **1-866-646-2717**

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▶ **How much are the Vault Bags worth:** Coin values always fluctuate and there are never any guarantees, but here's why U.S. residents are claiming as many Vault Bags as they can get before they're all gone. After the Vault bags were loaded with over 100 U.S. Gov't issued coins including: Silver, scarce, highly collectible, and a big scoop of unsearched currently circulating U.S. Gov't issued coins the bags were sealed for good. But we do know that some of the coins date back to the 1900s. That means there's no telling what you'll find until you sort through all the coins. So you better believe at just \$99 the Vault Bag fee is a real steal since the free Silver Walking Liberty coin alone could be worth from \$15 to \$325 in collector value.

▶ **Are the Silver Walking Liberty coins really Free:** Yes. U.S. residents who beat the 48-hour deadline are getting a Silver Walking Liberty coin minted between 1916-1947 free with each Vault Bag they claim.

▶ **Why is the Vault Bag fee so low:** Because thousands of U.S. residents have missed the deadline to claim the money the World Reserve has re-allocated Vault Bags that will be scheduled to be sent out in the next 48 hours. That means the money is up for grabs and now any resident who finds the first two digits of their zip code on the Distribution List below gets to claim the bags of money for themselves and keep all the U.S. Gov't issued coins found inside. Each Vault Bag fee is set at \$149 for residents who miss the 48-hour deadline, but for those who beat the 48-hour deadline the Vault Bag fee is just \$99 for as long as they call the National Claim Hotline before the deadline ends at: **1-866-646-2717**.

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Carolina Comeback

Why voters in the Tar Heel State turned right

BY JOHN HOOD

EVER since Pat McCrory became North Carolina's first Republican governor in 20 years, a stream of media coverage has portrayed the Tar Heel State as “the Wisconsin of 2013,” to quote the headline of a recent *Atlantic* article. The *New York Times* weighed in with a factually challenged editorial that described North Carolina's rightward turn on taxes, spending, public assistance, capital punishment, and other issues with terms such as “grotesque,” “cruel,” and “demolition derby.” Separately, *Times* columnist Paul Krugman savaged the state's decision to trim unemployment-insurance benefits—part of a plan to speed up repayment of a \$2.6 billion debt to Washington—as “a war on the unemployed” by conservative politicians who “won't be dissuaded by rational argument.”

Ready-made for the media crush was a North Carolina protest movement called “Moral Mondays.” Created by the state chapter of the NAACP in alliance with other liberal groups, it consists of weekly protests at the state's legislative building that have included the ritual arrest of activists for blocking access to legislative chambers, violating fire codes, and otherwise attempting to obstruct the normal operation of the general assembly. The

movement began small but grew to thousands of participants a week as TV cameras swarmed and a Moral Monday arrest record became a ticket to the Left's cool-kids table.

It's not surprising that the national media would seek a new Wisconsin to serve as the setting for a morality tale in which scrappy liberal activists lead the public in challenging heartless conservatives. But reality intrudes. In 2010, North Carolina voters elected Republican majorities in both houses of the state legislature for the first time since Reconstruction, even though Democrats outspent Republicans by millions of dollars and had drawn the district boundaries. In 2012, Republicans expanded their majorities, and McCrory, the longtime mayor of Charlotte, won the governor's race with 55 percent of the vote. These developments were a response to years of Democratic governance that had resulted in heavier tax and regulatory burdens, lackluster economic performance, pervasive corruption, and the criminal convictions of a governor, a speaker of the house, a senate majority whip, and an agriculture commissioner.

North Carolina had been a political outlier in the South during the 1990s and 2000s, combining one of the region's strongest Democratic parties, one of its highest tax burdens, and one of its weakest rates of growth in per capita income. (Republicans tended to see causality in the correlation.) Yes, Charlotte had be-

come the nation's second-largest banking capital, and the Raleigh–Durham–Chapel Hill “Research Triangle” a prominent home for tech companies. But much of the rest of the state was struggling to keep or add healthy firms paying good wages. By throwing ever-increasing amounts of corporate welfare at a few targeted firms, the state managed to rank highly on business indexes popular with professional recruiters even as broader measures of actual economic performance revealed weakness. Then the Great Recession brought even high-flying Charlotte and the Research Triangle down to earth. Widespread layoffs and business failures gave North Carolina one of the nation's highest jobless rates. In short, the state desperately needed a different governing philosophy. That's what voters opted for in 2010 and 2012. And they're getting it.

The change began in 2011, when the new Republican-led legislature rejected then-governor Beverly Perdue's idea to close a multibillion-dollar budget deficit with higher taxes. Instead, state lawmakers let a temporary sales-tax hike expire and enacted additional business-tax relief. At least as important were successful Republican initiatives to limit overregulation, reform tort and medical-malpractice laws, and encourage entrepreneurship and energy exploration. Once Governor McCrory took office in January 2013, the state legislature was free to pursue additional economic-growth policies that Perdue would have vetoed, including a follow-up bill on regulatory reform that imposes periodic review and sunsets costly rules. And last month, McCrory, house speaker Thom Tillis, and senate leader Phil Berger announced a compromise tax reform that represents one of the most spectacular changes in state tax policy in recent history. When fully implemented, it will give North Carolina a flat tax of 5.75 percent—replacing a multi-rate income tax that currently tops out at 7.75 percent—and reduce the corporate rate from 6.9 percent to as low as 3 percent in the out-years. In one stroke, North Carolina's tax regime went from No. 44 among the states in its favorability to business to No. 17, according to the Tax Foundation, a think tank in Washington, D.C.

McCrory, Tillis, Berger, and other state leaders are new in their current roles but experienced in politics and public policy. Contrary to liberal caricature, they, like

Mr. Hood is the president of the John Locke Foundation, a public-policy think tank in Raleigh, N.C., and the author of Our Best Foot Forward: An Investment Strategy for North Carolina's Economic Recovery.

A famous scientist said, “The problems existing in this world cannot be solved by the level of thinking that created them.”

What follows explains why that is true:

Whoever or whatever is the creator of mankind neither causes problems nor solves problems. Instead, the creator has provided laws of nature that *when obeyed create no problems.*

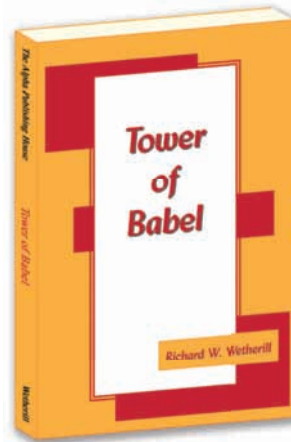
Problems are caused by the thinking and behavior of people acting on their own behavioral choices. So, as a result, the human race has been suffering untold miseries, conflicts, illnesses, and ultimately death.

All really successful ventures result only when people obey the applicable natural laws known as laws of physics: gravitation, momentum, and friction to name a few.

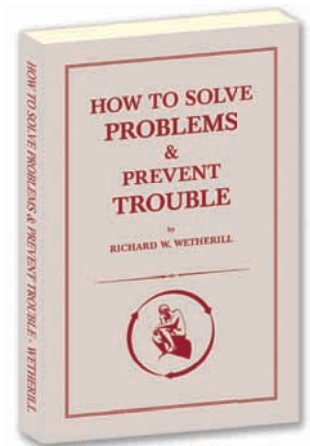
Decades ago Richard W. Wetherill identified nature’s law of right action and from that, we learn that it is people’s plans of life formed by their likes and dislikes that become mankind’s problems.

The elimination of those problems is achieved only by obeying the creator’s level of thinking found in the natural law of right action. As people think, say, and, do what is rational and honest, that new level of thinking makes problems disappear.

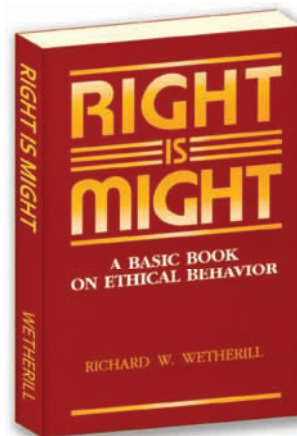
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“I have finished reading the book How To Solve Problems. So simple, yet so profound and powerful. Thank you.”
- Alex



most conservatives, do not believe that taxes and regulations are the only factors that affect state economies. They have also focused significant attention on increasing the productivity of public investments, such as those in infrastructure and education, while seeking ways to reduce the share of state spending devoted to transfer payments and other public consumption. During the 2013 legislative session, lawmakers rewrote the state's transportation policies so as to reduce traffic congestion and encourage job creation. On education, they abolished teacher tenure, expanded the state's charter-school program, and enacted two statewide voucher bills that will serve as many as 13,000 students within three years. The legislature also gave McCrory the green light to pursue a new competitive-contracting model for the state's rapidly growing Medicaid program, which is sapping resources that would be better spent on roads, schools, or additional tax relief.

These policies put North Carolina squarely within a modern conservative vision of how states can promote economic freedom and prosperity. Conservatives agree with liberals about the economic importance of infrastructure and education. Long-term growth comes from investment: from building the financial, physical, and human capital necessary to start and grow successful businesses. Where conservatives and liberals often disagree is on how states can best foster capital formation. Liberals tend to focus primarily on public capital, such as schools and roads, while worrying less about the private investment that accounts for roughly 80 percent of the economy's capital stock.

Higher taxes can finance higher levels of public investment, yes. But higher spending doesn't necessarily result in higher-quality infrastructure or education. At the same time, higher taxes can lead to lower levels of private investment by giving entrepreneurs, investors, executives, and professionals a reason to take their financial and human capital elsewhere. Successful states find ways to build and maintain good public assets while keeping tax and regulatory costs low in order to attract private assets. As a colleague of mine, Jon Sanders, puts it, "State legislation creates jobs the way roads create cars." By limiting their role to establishing the rule of law, protecting property

rights, and funding true public goods, state governments facilitate prosperity through private initiative.

Obviously, it's too early to judge the effectiveness of reform legislation enacted this year. But the Republican legislature began putting its imprint on North Carolina's fiscal and regulatory policies two years ago, and the early trends have been positive. Since the implementation of the lower-tax Republican budget in July 2011, North Carolina has added about 135,000 new jobs, which represents a faster job-creation rate than that of the nation as a whole and a major improvement over the preceding four fiscal years, when the state suffered a net loss of 240,000 jobs and underperformed the national economy. From 2001 to 2011, North Carolina's rate of growth in real per capita GDP averaged less than a third of the national rate. Since 2011, however, North Carolina's performance on this key indicator of economic progress has roughly matched the national rate.

Still, the state's unemployment rate (8.8 percent as of June) remains one of the highest in the United States. Among the ten most populous states, only Illinois (9.2 percent) ranks worse. Even if a policy mix of lower taxes, less regulation, smarter infrastructure spending, and market-based education reform is likely to boost economic growth in the long run, the benefits will take many years to become fully manifest. Impatient voters may not wait that long to issue a verdict on North Carolina's new Republican government. That's what state Democrats are counting on—and it's the real reason liberal groups are holding Moral Monday rallies. They hope to activate Democratic-leaning voters, who typically make up a smaller share of the electorate in midterm elections than they do in presidential years. Although they are swimming furiously against the historical tide—a political party tends to fare poorly after six years of controlling the White House—Democrats do enjoy generous and largely favorable state and national press coverage, well-funded organizations, and other institutional advantages.

So the histrionics continue. Perhaps the strategy of media-friendly protests will have better success in North Carolina than it did in Wisconsin. As a conservative, however, I incline to the view that history is instructive. **NR**

Greg Abbott's America

It could elect him governor

BY CHARLES C. W. COOKE

San Antonio-Houston

GREG ABBOTT is the man who comes from everywhere—in Texas.

Announcing his gubernatorial candidacy under the scorching-hot San Antonio sun, Abbott declares that for him and his wife of 31 years this is a "homecoming." "San Antonio is where Cecilia and I got married," he explains to the people assembled in the city's historic Plaza Juarez. It's "where she grew up," and "where her family still lives."

But San Antonio isn't Abbott's only home. In Houston, he describes setting up his first household after his wedding and taking his first job as a lawyer; in Duncanville, he talks of his years as a student at the local high school; in Longview, he holds forth about his time in the Boy Scouts' Troop 201, remembers playing Little League baseball, and speaks warmly of learning to fire a gun; in Wichita Falls, he mentions his parents and the house where he was born, as well as his grandfather, who was a pastor. "I have lived in virtually every region of the state," Abbott adds.

"He's a Texan's Texan," one fan tells me in Longview. "He knows this town and he knows this state." Abbott points to people he recognizes in the audience, telling stories about their antics as students. A phone rings and interrupts his flow. "Feel free to get it," he cracks. "As the father of a teenage daughter, I'm used to talking when people aren't listening."

When he has finished speaking to the 500 or so people who have crammed themselves into Houston's Goode's Armadillo Palace, the stage is all but rushed. Abbott acknowledges each person individually. "Great to see ya, I appreciate that," he says. "Thank you for bein' here." The attendees are a hodgepodge of white, Hispanic, and black voters of all ages. Some wear suits, others cowboy hats, others T-shirts. One particularly enthused woman has an Abbott T-shirt, button, sticker, and yard sign.

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She holds the yard sign above her head and waves it at any camera pointing approximately in her direction.

With maybe 200 people still waiting to speak to the candidate, the noise is considerable. Abbott asks a fan for her name three times to make sure he has it right. “We want him here and there quickly, you know,” his staff complain to me. “But he just won’t leave.” After an hour or so he is moved along. “I have to go do some TV now,” he tells those still waiting. “But if you stick around I’ll be here after.” The crowd stands its ground, and it takes him 15 minutes to move about 75 feet. An hour later, 20 or so people still remain. “Sorry to keep you guys waiting,” Abbott says as he emerges from the makeshift media room. Then he starts talking to them again.

Abbott’s stump speech is not typical. Much of it is devoted to explaining why he is confined to a wheelchair. This story, little known outside Texas, keeps audiences rapt. In 1984, just after he’d graduated law school, Abbott went running with a friend. “While I was jogging,” he says, “a huge oak tree suddenly crashed down on me.” The oak completely crushed a nearby Cadillac. It smashed Abbott’s spinal column, too, instantly paralyzing him from the waist down. The pain was “excruciating,” Abbott tells the hushed assembly. It was “like someone had taken a sledgehammer to my back. The first thing I said was, ‘I can’t feel my legs.’” He remained in the hospital for over a year, during which time he started to read seriously about politics and to think of eschewing legal practice for a career as a public official.

As Abbott sees it, his story and his political appeal are inextricable. “What I symbolize,” he tells me, “is actually what Texans symbolize—and that’s perseverance. Texans get knocked down but they always get back up. We see hurricanes, we see tornadoes, and we see people victimized by circumstance. But we don’t pity ourselves in Texas.” Fred Frost, the friend who went running with him on the day of the accident, describes him as “battle tested.” Speaking to the crowd, Abbott puts it wryly: “Some politicians talk about having a spine of steel, but I actually have one.”

I ask him if he ever pitied himself. He admits that he didn’t think about much other than his new condition for a few years. “I had that accident and everything



got pushed aside. I stopped thinking about all other aspirations or goals and really just had to focus on surviving first—and family and first principles.” He eventually “realized that just because I was living differently didn’t mean I couldn’t go on to achieve other things; just because you’re a paraplegic doesn’t mean you can’t go on and find ways to serve your community.” Abbott has been a state trial judge and spent two terms on the Texas supreme court. He is currently serving a third term as attorney general, the first person in the history of Texas to do so.

In recent years, Texas has tended to vote for Republicans, which means Abbott would have a good shot in the general. But these are the early days of the primary. I ask him how he differs politically from the other Republican candidate, Texas work-force commissioner Tom Pauken. “I’m the *only* person running for governor with a proven conservative record of fighting for the ideals and values that have made this country great,” he says in his slight East Texan cadence. “I’m the *only* candidate running for governor who has fought and defended the Second Amendment. I’m the *only* one who has fought for the Tenth Amendment. I’m the *only* one who has enforced the United States Constitution.” These are oblique references to cases he has handled as attorney general. He has commented that his job is to “go into the office in the morning, sue Barack Obama, and then go home.” This was a quip but not exactly a joke. To me, he continues: “I’m the one who sued the Obama administration 27 times. I’m the one who is challenging Obamacare.” He tells me that if the federal government won’t enforce the border, “I will,” and that within minutes of the Supreme Court’s recent Voting Rights Act decision he moved to ensure that the state’s voter-ID

regime took effect “immediately.” He emphasizes his current defense of a Texas law restricting access to abortion.

“If you want to start a fight with Texans,” he warns, “just try taking away their freedom.” At his launch rally, his supporters hand out fans with “Fast cars, firearms, and freedom—endorsed by Greg Abbott” emblazoned on the side. “One of the frustrations that conservatives in particular have had,” he explains to me in a private interview, “is that people will talk a good game but then fail to live up to that promise when in office.” Not he, is the clear implication.

I wonder if Abbott has been listening to criticisms of the state’s business-relocation incentives, which the Tea Party and the libertarian wing of the conservative movement have called “corporate welfare.” He avoids talking directly about Governor Rick Perry’s economic policy, but he says that “government should stay out of the business of picking winners and losers.” This picks up on a theme in his speech: “I believe it’s high time that people on Main Street benefit just as much as folks on Wall Street,” Abbott says at each venue, adding that he wants Texas to have an economy that “allows first-generation college graduates just as much opportunity as seasoned investment bankers.” I ask how he’ll achieve that. “A really sound tax policy” and “education reform.”

Abbott tells me that the “safety of children” is also a top priority. As attorney general, he has set up a fugitive unit to track convicted sex offenders in violation of their parole, and a cyber-crimes unit to crack down on abusers who use the Internet to find victims. A particular point of pride for him is that he has enforced the state’s child-support laws, collecting more than \$24 billion in delinquent payments.

In conversation, Abbott returns often to his 16-year-old adopted daughter, Audrey, who introduces him at each stop, and to his wife, Cecilia, who he says represents the “meaning of love,” having “stood by my side during the most painful period of our lives.” Pointing to his family, Abbott says that he wants to head up a state in which “any child of any background has a chance to smile, to hope, to dream and succeed.”

The man from everywhere has to end up somewhere. From what I’ve seen, I wouldn’t bet against it being the governor’s mansion. Someday he might even move out of state. **NR**

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Making a Federal Case Out of It

Regulation by prosecution

BY STEPHANOS BIBAS

IN 1999, federal fisheries agents received an anonymous tip by fax. The fax claimed that David McNab was importing lobsters from Honduras that were packed in clear plastic bags, not the cardboard boxes prescribed by Honduran law, and that some of the lobster tails were undersized.

Acting on the tip, the feds seized a \$4 million shipment of lobster tails and charged McNab and three of his customers with felonies for violating and conspiring to violate the Lacey Act, which forbids taking wildlife in violation of local laws and regulations. They also charged McNab et al. with smuggling, because the lobster importation violated the Lacey Act, and money laundering, for depositing the proceeds of smuggling. The Honduran government intervened on behalf of the defendants, contending that they had done no serious wrong and that the Honduran regulations were void or had been repealed. But the four were convicted of multiple federal felonies, and three of them received eight years each in federal prison.

When we think about crimes, we (and local prosecutors) normally focus on inherently wrongful acts that harm or threaten to harm persons or property. Defendants have plenty of notice that it is wrong to do these things. Traditional crimes are also defined to include some level of *mens rea*, or guilty mind, which

Mr. Bibas, a professor of law and criminology at the University of Pennsylvania, is the author of The Machinery of Criminal Justice.

limits punishment to intentional, reckless, or at least negligent wrongdoers. It makes perfect sense for prosecutors to pursue zealously such harmful wrongs, to punish them and stamp out crime.

But federal law criminalizes much more than these classic violent, property, or even drug crimes. It also punishes a wide range of regulatory offenses, ranging from tax and white-collar offenses to violations of environmental and wildlife laws such as the Lacey Act. These laws are less intuitive and less well known. Many of them dispense with *mens rea* requirements, in whole or in part. They often draw vague lines separating lawful conduct from civil infractions from crimes. Yet many of them brand violators as felons and threaten them with years of imprisonment.

serve, using it to coerce civil settlements and consent decrees even where proof of wrongdoing is shaky. Indeed, prosecutors of white-collar crimes often enter into deferred-prosecution agreements, in which businesses are not prosecuted in exchange for paying fines, firing employees, or making other internal changes not provided for by law or regulation. That allows regulatory agencies to flex their muscles and read laws expansively—for example, reading the Clean Water Act to cover all kinds of building in wetlands. Any criminal conviction amounts to the death penalty for a legitimate business (as it was for Big Five accounting firm Arthur Andersen, even after its conviction was reversed on appeal). Thus, few businessmen dare to fight federal power grabs, and regu-



As a result, federal prosecutors have tremendous discretion in deciding what amounts to a federal crime, a civil wrong, or a debatable violation to be overlooked. They carry fewer cases than do local prosecutors and often have specialized mandates, so they do not have to weigh the benefits of pursuing regulatory crime versus traditional street crime.

Federal prosecutors can also hold the threat of criminal enforcement in re-

lators can push the envelope of their power.

Federal regulators can afford to use criminal prosecutions sparingly so long as the loaded gun of criminal penalties lies in full view on the negotiating table. A corollary is that defendants are prosecuted not for being the worst of the worst, but for refusing to play ball.

In one case (on which I worked as a young lawyer), Maryland real-estate developer Jim Wilson developed a plot

ROMAN GLENN

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Israeli Settlements: Are They a Threat to Middle East Peace?

The Palestinians refuse to join peace talks unless Israel stops building in Jerusalem and parts of the West Bank. But who “owns” the West Bank? And are settlements really the problem?

What are the facts?

While many in the media refer to the West Bank as “Palestinian territories,” Palestinians in fact have never actually possessed or controlled this land. Beginning 3,000 years ago these territories between the Jordan River and Jerusalem were a part of the Jewish kingdom known as Judea and Samaria. Jews have lived on these lands continuously until the current day. For several hundred years, through the 19th century, Judea and Samaria were part of the Ottoman Empire, where both Arabs and Jews lived. In 1922, these lands

became part of the British Mandate, designated for partition into Jewish and Arab nations. The Arabs rejected this partition, but in 1949, following Israel’s

declaration of independence, Jordan seized and occupied Judea and Samaria, which included such Jewish communities as Hebron and the Jewish quarter in eastern Jerusalem. All Arab residents of these lands were declared citizens of Jordan.

Finally, in 1967, when Israel was attacked by Jordan, Egypt and Syria, Israel defeated these invading Arab armies and again took control of Judea and Samaria, then also called the West Bank. After the 1967 war, the United Nations decreed that unspecified parts of these captured territories would be granted to the Arab Palestinians as part of a negotiated peace. Indeed, Israel has demonstrated numerous times its willingness to give up land for peace—for example, the Sinai Peninsula to Egypt, and Gaza to the Palestinians. But so far, the Palestinians have refused to accept a peaceful settlement with Israel on ownership and borders of Judea and Samaria.

Do Jews have a right to settle in Judea and Samaria? Since 1967, Israel has reclaimed all of Jerusalem as its capital, and, as Israel’s population has grown, its citizens have built new communities—settlements—in the eastern part of the city and on Israel’s eastern front. Currently some 534,000 Israeli citizens live east of the 1948 armistice lines, in Judea and Samaria. The area on which these settlements are located constitute a mere three percent of the West Bank.

While critics have cited Article 49 of the Fourth Geneva Convention to declare the settlements illegal, this argument is based on a false reading. First, Article 49 prohibits “Individual or mass forcible transfers, as well as deportations of protected

persons from occupied territory to the territory of the Occupying Power or that of any other country.”

However, no Israelis are being transferred to the settlements—all are moving to them voluntarily. Also, the areas of the settlements are neither under the legitimate sovereignty of any state, nor on private Arab land. Most importantly, they have never displaced any legitimate Arab inhabitants. What’s more, any instances of illegal Israeli homes in the West Bank have been disallowed by the Israeli High Court and dismantled.

“The only way to determine the final borders of Israel and those of a future Palestine is through peaceful negotiations.”

Second, no Palestinian Arabs are being deported from their places of residence to any other place. Third, the Geneva Convention applies to actions by a signatory “carried out on the territory of another.” However, the West Bank is not the territory of a signatory power—since the Palestinians have never had a state—but rather is an unallocated part of the British Mandate.

If Arabs can live in Israel, why can Jews not live in a future Palestinian state? Every effort by Israel and the United States to bring the Palestinians to peace negotiations is met with refusal by the Palestinians, who demand as a pre-condition that 1) Israel give up all rights to Judea and Samaria, including the settlements, and 2) that all Jewish settlement building cease. Given that the Arabs lost the war in 1967 and that Palestinians have never possessed Judea and Samaria (the West Bank), these preconditions seem overreaching and unreasonable.

Indeed, the Palestinians insist that their proposed new country be entirely free of Jewish residents, even as 1.5 million Palestinian Arabs are permitted to live as fully enfranchised citizens in Israel. What’s more, the Palestinians insist that five million descendants of Arab refugees from Israel’s war of independence be permitted to settle in the Jewish state. In short, they are demanding both a new Palestinian state with no Jews and the right of Arabs to take over Israel demographically.

The only solution to the settlement issue: Negotiations. The entire territories of the West Bank are disputed. They cannot legitimately be said to belong to the Palestinians or to Israel. Clearly, the only way to determine the final borders of Israel and those of a future Palestine is through peaceful negotiations. Likewise, the disposition of Israeli settlements and Israel’s Jewish character will be resolved by mutual agreement.

In short, the settlements are not the issue. The only path to a resolution to all these disagreements will be reached when the Palestinians finally agree to sit down with Israel and forge realistic compromises for achieving their own autonomous state, as well as peace and security for Israel.

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of land alleged to be a wetland. The Army Corps of Engineers asserted federal jurisdiction over the land as a navigable water, even though the nearest river was six miles away, and Wilson dared to fight back with a takings lawsuit. In response, the feds prosecuted him for felonies under the Clean Water Act, on the theory that digging ditches and putting the removed dirt next to the ditches amounted to discharging a pollutant into navigable waters without a permit. They offered to settle the case for a \$1 million fine and an admission of wrongdoing, but Wilson refused. He and his company were convicted and punished with several million dollars in fines, and Wilson was sentenced to almost two years in prison. The conviction was later overturned on appeal.

In another case, outdoorsman Tom Lindsey and his friends got federal permits to float down the Snake River in Idaho and Oregon but began their rafting days at 7 A.M., rather than the officially permitted 9 A.M. starting time, and used gas stoves at their camps. Lindsey had an anti-government attitude and had had run-ins with Forest Service agents before. On this occasion the agents came by helicopter to arrest the gang, sent him a letter revoking the camping permits, and indicted Lindsey and his brother for the felonies of camping without a permit and building a campfire without a permit. Like Wilson, who was prosecuted after challenging the Army Corps of Engineers, Lindsey may have been prosecuted in part because of his prior run-ins with the feds. The case against Lindsey was ultimately dismissed.

The criminal law is a powerful tool. Traditionally, we have tried to use it sparingly, to condemn the most obviously harmful wrongs. That approach leaves everything else to civil law and regulations and conserves the law's moral credibility. But regulators increasingly add this powerful weapon to their arsenals to aggrandize their power and force civil settlements.

We conservatives rightly distrust big government, but we have been slow to apply that suspicion to the criminal side of the regulatory state. Within the traditional sphere of harmful wrongs, conservative tough-on-crime instincts make perfect sense. We want police and prosecutors to be zealous in chasing and pun-

ishing murderers, robbers, and rapists; everyone knows and agrees that these acts are wrong and deserve zero tolerance.

But our libertarian and limited-government instincts should make us more skeptical of newfangled regulatory crimes, especially federal ones. The government appropriates the machinery of criminal justice as a tool for turning regulatory objectives into coercive moral crusades. These new crimes are not inherently or obviously wrongful, let alone wrongful enough to be crimes. And many of them do not require proof of *mens rea*, so unwitting violators of workplace-safety rules and the like may be at risk.

The government's temptation to overuse this powerful tool is often irresistible. Branding a problem criminal is a way for legislators to show that they take it seriously without having to budget for a new enforcement bureaucracy. Regulators announcing new rules must first provide public notice, allow comment, and prove that the new rules carry more benefits than costs, but agents and prosecutors are not fettered by cost-benefit analysis when deciding how zealously to prosecute.

Regulatory agencies lobby law enforcement to arrest and prosecute violators to further their narrow missions and justify their existence and budgets, and the FBI and federal prosecutors have a hard time saying no. Unlike civil inspectors, criminal-enforcement agents get instant attention and respect, inducing quick compliance and settlements. And while new rules have to face judicial review, settlements and plea bargains effectively insulate prosecutorial enforcement decisions from review.

Certainly, the government needs to regulate pollution, fraud, tax shelters, hunting, and fishing. Civil penalties, and even court-ordered injunctions, are often necessary. But the government has far too much low-visibility power and discretion to turn a civil wrong into a crime. It can threaten to brand legitimate businessmen criminals, and most of them will back down meekly in fear. Federal power thus keeps expanding. The losers are not always those who are most culpable or cause the most harm, but those who dare to buck the system. **NR**

Laboratory of Islamism

Egypt's long erosion by an imperial ideology

BY DAVID PRYCE-JONES

EGYPT is the stage for a confrontation that is going to affect the relations between Muslims everywhere, and beyond that, between Muslims and everyone else. The issue is Islamism, the ideology resting on the belief that the God-given supremacy of Muslims is the natural order of things. Currently spreading throughout Muslim countries and further taking hold of Muslims in the countries of the West, the ideology is motivating growing numbers of them to resort to terrorism. What is happening in Egypt has implications for the world order, to be compared in importance to the nuclear program in Iran.

For years, everything in Egypt has been going from bad to worse. It is a classic autocracy. Of the last three presidents of Egypt, one died in office, another was murdered, and only the upheaval of the Arab Spring prised out the third, Hosni Mubarak, after his stint of 30 years. A president who repudiated strong-arm methods or resigned voluntarily would have to be an exceptionally self-sacrificing character.

Unexpectedly, the Arab Spring provided the opportunity for Egypt's Islamists, the Muslim Brotherhood, to take power. Hitherto relatively unknown, Mohamed Morsi emerged as leader, and is credited with having won the first free election ever held in Egypt. He proved to be every bit as autocratic as his predecessors in office. One of his first measures was to fire the field marshal previously at the head of the army. In place of this Mubarak loyalist, he appointed General Abdel Fattah el-Sisi. Widely assumed to be a crypto Muslim Brother and crony of Morsi's, Sisi in fact decided against Islamism. He started a test of strength. Morsi and about 300 Muslim Brothers are now held in detention, and some may have to face trial.

Founded in the late 1920s as a secret society by a few like-minded friends, the Muslim Brothers have been unique propagators of Islamism, consistently arguing, scheming, and even fighting for the introduction of sharia law. Acquiring the status of an unofficial opposition, they have persecuted their persecutors. Muslim Brothers tried to assassinate every one of the presidents of independent Egypt, succeeding in the case of Anwar Sadat. Between them,

the first to introduce a constitution for that purpose. Inexplicably based on the Belgian model, the constitution served merely to add an extra layer of intrigue to power struggles at a high level. According to best estimates, after the British left Egypt in 1952 Nasser took three years to remove all political traces of their occupation. The constitution that he wrote was designed for his one-man rule. His model was the Soviet Union, where in 1936 Stalin had

of Egypt, it would be a Eurocentric conceit to treat the lexicon of “election,” “coup,” “liberal” and “secular,” “democracy,” the “Arab Spring,” “the will of the people,” and suchlike as having familiar meanings with the same validity everywhere. In tones of surprise and shock, politicians and journalists have jumped to the Eurocentric conclusion that Sisi has indeed mounted a coup of the sort that gives the Third World its deplorable reputa-

People accustomed to democracy have to make an effort of imagination to avoid the Eurocentric mistake of interpreting a **foreign political system** and its practices exclusively from the perspective of the West.

Gamal Abdul Nasser and Hosni Mubarak kept the Brothers in check by executing their leaders and imprisoning or detaining without trial thousands of them.

Sunnis, the Muslim Brothers imagine that the British and now the Americans, Jews and now Israelis, secular Arabs and Shiites have all been ranged against them and conspire to do them down. Although employed at Oxford University, famous for its school of logic, Tariq Ramadan, grandson of the founder of the Brotherhood and now its principal apologist, believes that invisible and unnamed plotters manipulated the downfall of Morsi. He writes: “The Egyptian people have been unwitting participants in a media-military operation of the highest order.” Since the rationale of these media-military demons can only be malice, the Muslim Brotherhood practices a culture of violence and terror under the guise of self-defense. It is a measure of the country’s poor standards of education and wretched governance that the masses are willing to adopt this mindset and the measures that go with it. With a presence in some 60 countries and a membership in the millions, the Muslim Brotherhood has given them a sense of belonging.

In old days, the winner of a test of strength like this would simply have taken over the citadel and eliminated rivals actual or potential. Today, with the media after him, the winner needs the veneer of legality. The British were

promulgated the perfect dictator’s charter that guaranteed all the rights anyone could want but did nothing to prevent him from launching the Great Terror. Morsi wasted no time preparing a constitution that would allow him to rule over an Egypt firmly and irrevocably remodeled for sharia and Islamism. (In order to set up as an autocrat answerable to himself and not to parliament, Turkish president Recep Tayyip Erdogan is setting another example of writing the appropriate constitution. It took Bashar Assad a matter of minutes after his father’s death to have the Syrian constitution revised so that he could take power.)

People accustomed to democracy have to make an effort of imagination to avoid the Eurocentric mistake of interpreting a foreign political system and its practices exclusively from the perspective of the West. In the context

tion. President Obama foreclosed on the decades of American support for Mubarak and so is largely responsible for Egypt’s present predicament. He now says, “The United States continues to believe firmly that the best foundation for lasting stability in Egypt is a democratic political order with participation from all sides and all political parties—secular and religious, civilian and military.” In the purest Eurocentric manner, this prescription has no connection to reality, no prospect of being more than verbiage. Anne Patterson, the American ambassador in Cairo, goes even further, urging General Sisi to open dialogue with the Muslim Brothers with a view to making concessions to them.

A columnist in the London *Daily Telegraph* is one among others to ask what is the point of democracy if some general doesn’t care for the winner of an election and kicks him out. In the name of the “magnificent values” of Britain, according to this article, there is a moral obligation to support Morsi and the Muslim Brothers. Television programs specialize in giving time to Muslim Brothers who speak English and duly rehearse the line that Morsi alone has legitimacy to rule. One spokesman says of Egyptians that “their freedom, dignity, and right to choose have been attacked,” and another calls for “an uprising by the great people of Egypt against those trying to steal their revolution with tanks.”

It is a tragicomic marvel that an



“Well, you heard wrong, pal—We serve Terre Haute cuisine here.”

Islamist mass movement intent on autocracy, dictating and enforcing an inflexibly narrow religious and political standpoint, furiously intolerant of anyone different, and defining democracy as a Western instrument for harming Islam should now be appealing to that selfsame democracy in their own defense. Vice versa, it is no less marvelously tragicomic that as a matter of “magnificent principle” Westerners are coming to the defense of Islamists who hold them in the deepest contempt.

In reality, Morsi and the Muslim Brotherhood’s intention to transform Egypt into an Islamist experiment is a good deal more like a coup than anything Sisi has done, and Sisi is at least as close to representative democracy as the Brotherhood, and probably closer. Morsi is the agent, Sisi the patient. In autocracies, power remains an absolute. There are no means, no institutions, either to mediate power or to safeguard its transmission. Morsi’s supporters and Sisi’s supporters are out on the streets, each setting about mustering a larger demonstration than the other. Numbers carry the implication of a civil war in which the winner takes everything and the loser is left with nothing. Sisi is preparing a constitution to suit himself. Things may not work out his way. Every month another 100,000 babies increase the population. There isn’t enough land to meet the agricultural demands and there isn’t enough money to import the requisite food or to maintain subsidies. The guardian of law and order, the army is daily exchanging shots with rioters and is also taking casualties from jihadis who have taken over Sinai. If Sisi cannot hold the line, Islamism may become the most influential organizing principle of politics since Communism.

Islamists by definition are never going to throw their hands up and say how sorry they are to have been so dreadfully wrong and done such harm. The difficulty of dealing with this ideology suddenly sprung upon them has mentally and morally paralyzed those in the West responsible for policy. The world is made to stand by listening to “ancestral voices prophesying war,” as Coleridge expressed it in one of his visionary poems. Perhaps only a Muslim general can tackle the issue. Thankfulness that there is such a general might be in order. **NR**

Meet the Cracker

An old epithet gets a new life

BY FLORENCE KING

As the Zimmerman case proved, a defining characteristic of the American mind is the care we take with our racial vocabularies to make sure they specify where we land in our national free fall known as “This is who I am.”

Earlier generations of blacks had no trouble finding interesting and clever ways to identify the Southern white racist. For instance, they called him a “peckerwood,” a deliberate inversion of a familiar word to describe the way he treated them: Like a woodpecker drilling into a tree, he was always at them, but switching the syllables gave them a protective cover in case he overheard their grumbling. Or he might be a “hoppergrass,” a dangerously changeable type whose next mood and next move were as unpredictable as a grasshopper flitting across a field.

Cool 21st-century blacks would naturally scorn the word-inversion code. It was retrogressive to the point of retreat, betrayed a fear of whites, required imagination, allowed for a comic touch, and made blacks sound illiterate. Most of all, it did not go far enough, so the cool generation devised a way to identify not only Southern white racists but Southern white racists of all races and regions. It was easy. Simply latch onto an unfamiliar obsolete word, personalize it to establish black ownership, and turn it into a fist bump. This is how George Zimmerman became a “Cracka.”

For the millions of Americans who are now wondering what a “Cracker” is, take heart: You do not have to parse Rachel Jeantel’s tortuous efforts to explain it. The answer has been right there in front of you all along, since 1936 in fact, because an important character in *Gone with the Wind* who was left out of

the movie is a Cracker named Will Benteen.

He enters the story in Chapter 30, one of the retreating Confederate soldiers making their way home on foot after the surrender. As he passes through Tara he collapses with pneumonia and the O’Haras take him in and nurse him. We first meet him in the sickroom where he lies near death. “He was obviously a Cracker, just as the boy they had buried so short a while ago was obviously a planter’s son. Just how the girls knew this they could not say. Certainly Will was no dirtier, no more hairy, no more lice infested than many fine gentlemen. . . . Certainly the language he used in his delirium was no less grammatical than that of the Tarleton twins. But they knew instinctively, as they knew thoroughbred horses from scrubs, that he was not of their class.”

He pulls through, and to repay the O’Haras for saving his life he stays on and helps with the work. A small farmer before the war, he turns out to be a godsend, able to plow ruler-straight furrows, build fences, mend tools, and cure the horse of a fatal equine disease. He is the polar opposite of Ashley, the only other man on the place, who cannot split kindling without cutting himself. A mutual respect grows up between Scarlett and Will, who admire each other’s practicality and common sense. Knowing how much she needs his help to rebuild Tara, Scarlett looks for a way to keep him living there permanently instead of continuing on his way. When she learns that he bears an unrequited love for Carreen, her sweet-natured youngest sister, she quickly dispenses with class distinctions and urges Carreen to marry him. But Carreen has never gotten over Brent Tarleton, who was killed at Gettysburg, and has decided to become a nun. Meanwhile, Gerald O’Hara dies, Carreen goes off to the convent, and Melanie and Ashley move to Atlanta, where Scarlett herself now lives. That leaves Tara with just two residents, and so, to avoid scandal and preserve the proprieties, Will the Cracka marries Scarlett’s other sister, Suellen, who is a fist bump in her own right.

In some ways Will Benteen could be called the “iconic Cracker,” to use the latest ubiquitous cliché. He certainly has the look: “a sallow malarial face, pinkish hair, washed-out blue eyes . . . lean and

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lanky, deceptively devoid of energy, eternally chewing on a straw.” Unlike poor white trash, who were seen as a leveling presence and a threat to the social order, Crackers were known for their simple dignity. To the County elite Will was “polite, respectful, mild, placid, patient as a draft animal,” worthy of that foremost Southern encomium, “poor but proud.” Some of the local gentry express resigned approval of him: “Oh, Crackers are good and solid and honest, but . . .” while others add the standard caveat: “He was honest, he was loyal, he was patient, and he was hardworking, but certainly he was not quality.”

This is Will but it is not iconic. For pure, unadulterated Crackers you must look to the family in *The Yearling*. What is different about Will is his consuming love for the land itself and for Tara in particular. As the impoverished planter families discern this, he goes from being the aristocrat’s favorite Cracker to the Cracker as aristocrat.

Predictably, Melanie starts his elevation when she proclaims him “a gentle-

man for his kind heart and thoughtfulness of others,” but official recognition comes from the holy terror of the County, Old Miss Fontaine, who unloads on Scarlett after Suellen’s engagement to Will is announced. She begins with the usual aristocratic prologue about unwise horse breeding, then abruptly switches sides.

“Do I approve of Crackers marrying into old families? Bah! Would I approve of breeding scrub stock to thoroughbreds? Well, don’t bother about what folks say. It’ll probably be a very successful marriage. Of course, Will’s always going to look like a Cracker, and marriage won’t improve his grammar any, and even if he makes a mint of money, he’ll never lend any shine and sparkle to Tara like your father did. Crackers are short on sparkle. But Will’s a gentleman at heart. He’s got the right instincts. . . . Yes, he will do well by Suellen and by Tara.”

In a novel whose theme is pure social Darwinism, the Cracker as aristocrat pales beside the aristocrat as Cracker.

Such is Cathleen Calvert, the dashing blond belle “who, next to Scarlett, had more beaux than any girl in the County.” Scarlett has not seen her since before the war; when they meet again at Gerald O’Hara’s funeral Scarlett is horrified by what she sees. “Her faded sunbonnet [hid] her bowed face. . . . Her percale dress had grease spots on it and her hands were freckled and unclean. There were even black crescents under her fingernails. There was nothing of quality folks about Cathleen now. She looked Cracker, even worse. She looked poor white, shiftless, slovenly, trifling.” What Scarlett called gumption Darwin called the survival of the fittest. She and Will had survived but Cathleen had gone under.

In closing I offer some advice. If anybody calls you a “Cracka,” inform him that the word is not as cool as Rachel Jeantel thinks. It would be pronounced the same way by Scarlett O’Hara’s mother, whose coastal-Georgia accent is described as “liquid of vowels, kind to consonants.”

NR

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Types of Stereotypes

Not all are unreasonable

BY THEODORE DALRYMPLE

THE man who walks out of his house with a mind devoid of stereotypes is like the man who goes to the Antarctic without having inquired about the weather. But there is no such man: for even to know that the Antarctic exists is to know that it tends to be cold there. Our minds are necessarily full of stereotypes and we could not negotiate the world without them.

George Zimmerman is accused by his detractors of having acted upon a stereotype. He saw a young black man allegedly pursuing an erratic course in a gated community and he concluded that he was up to no good, that quite possibly or even probably he was a burglar on the prowl. If only he had kept another stereotype in his mind, things might not have turned out so disastrously: It was raining that evening and burglars do not like the rain. In fact, the principal cause of certain kinds of crime is clement weather, because the statistical association between such weather and those types of crime is the strongest known to me, stronger even than those between smoking and criminality (more than 90 percent of prisoners, at least in Britain, smoke), and between tattooing and criminality (an even higher percentage of white criminals are tattooed, except for those charged with

fraud, embezzlement, etc.).

I first learned of the meteorological causes of crime on the walk that I took most afternoons for 15 years, between the hospital where I worked in the morning to the prison where I worked in the afternoon. It was about 600 yards, and on fine summer days up to six or seven cars parked on the way would have been broken into, the little shards of shattered glass sparkling, almost with the color of peridots, on the curbside. In winter, or in the rain, not a single car was ever broken into, and I was surprised that the police had not issued a warning to car owners to park their cars only in bad weather. Criminals may be tough, but they are not hardy.

Now, if George Zimmerman had realized this, it would have neutralized his alleged stereotype and the whole tragedy would not have occurred. He didn't realize that it was unlikely (though not absolutely impossible) that the young man was on a criminal enterprise because he wasn't hurrying to get out of the rain, as most true criminals would have done if they had been caught in it.

THERE is no doubt that most people's view of the case accords with the stereotypes they carry around with them in their minds almost as intimately as their cells carry

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their DNA. Polls showed that the disagreement between America's whites and blacks on this cannot be a purely intellectual one, for both had access to the same information, the same records, and so forth. A survey conducted by Pew found that 86 percent of blacks and 30 percent of whites were dissatisfied with the verdict; and an ABC News/*Washington Post* poll found that 87 percent of blacks and 33 percent of whites thought the shooting was unjustified.

There were no facts in the case so unambiguous that they compelled any rational person to come to one and only one conclusion about George Zimmerman's guilt or innocence of the charge, such that we could condemn anyone who didn't come to that conclusion as mad, malign, or mentally deficient. But I should be inclined to add that no rational person could say that George Zimmerman's guilt had been proved beyond a reasonable doubt, and therefore that his acquittal was both right and inevitable, were it not that by doing so I should be condemning 86 percent of blacks to the realms of irrationality.

For most people, the willing suspension of disbelief is difficult and requires effort not when, for example, they see a film or read a novel, but when they hear or read about events in the real world. And the belief that they cannot, will not, or desperately do not want to suspend is their belief in the picture of the world that they have formed for themselves. For them, the world is an assembly of stereotypes the abandonment of any one of which threatens the whole worldview that is precious to them and causes them discomfitingly to doubt their ability to understand the world.

An Internet commenter on an article that tried merely to give the factual account of the trial of George Zimmerman wrote: "This trial is a joke. You don't need a trial to establish his [Zimmerman's] guilt." For this reader, Zimmerman was guilty *ex officio*, just as for others Trayvon Martin was *ex officio* nothing but a young thug who got what he deserved. This reader is the kind of person, of whom there are many, who cannot distinguish between O. J. Simpson's guilt and the prosecution's failure to prove it.

In a bad-tempered exchange that followed a Web article on the case, a reader whose cybbername is "Yowolowo" wrote: "Zimmerman didn't 'introduce himself.' If he had, probably none of this would have happened. He didn't follow Neighborhood Watch protocol, which is to be the eyes and ears, not the enforcer. He brought a loaded gun and got out of his car and approached a young man who had no idea what his intent was. He acted foolishly, resulting in the death of an innocent person." A man who calls himself "White Hunter" replied: "Good thing he had the gun. Otherwise an innocent person would have died." Yowolowo countered: "An innocent person did die, the one who got stalked by a wannabe-cop with a loaded gun. There is nothing courageous or righteous about what Zimmerman did. And your comment is hateful and despicable."

One would have been surprised, I think, if Yowolowo had written what White Hunter wrote, and vice versa. Both Yowolowo and White Hunter chose their respective names to convey something important about themselves, and the fact that we would be surprised if Yowolowo thought Zimmerman was fully justified in shooting Martin, or if White Hunter thought that Zimmerman murdered the totally innocent Martin, suggests that they both succeeded in doing so. In other words, they were appealing to stereotypes, which brings us to an important but often overlooked point about stereotyping: that many, perhaps even most, people want to

be stereotyped. Indeed, they do their best to ensure that they are, for, unlike the detractors of stereotyping, they appreciate something deeply embedded in human nature—namely, that man is a creature for whom symbolism is as inescapable as breathing.

It may be, of course, that we usually don our clothes as second nature, without thinking. But that does not mean that they symbolize nothing. For me it is as natural to put on a tweed jacket as for a youth of a certain kind to don a hoodie or a baseball cap sideways; neither of us gives much thought to the matter on any individual occasion, though both of us convey a message thereby.

But often we do give thought to such matters. The fashion among young males for low-slung trousers, for example, originated as a symbolic identification with prisoners, who have their belts removed from them on arrival in prison for fear that they will hang themselves with them or perhaps use them as a weapon. The results are obvious; and those who see, or rather intuit, in this fashion an insolent defiance, a deliberate rejection of what would once have been called respectability, are surely right to do so even if they do not know the origin of the fashion. The same is true, incidentally, of those who obey the fashion; they may not know its origin, but they are fully aware of the effect it is likely to have on those whom they wish to offend. Such, indeed, is its whole purpose: The fashion is a symbol of an attempted creation of a mirror-image moral universe, in which what is held to be good by one part of society (that to which we, dear reader, belong) is held in contempt by the other, and vice versa.

Now it is obviously true that not all young men who dress in, say, hoodies are thugs; but if you were walking down an inadequately lit alleyway and a young man in a hoodie came toward you, it is likely that you would experience a greater frisson of fear than if he were dressed in a tweed jacket. And that may be precisely what he wants, even if he has no intention of attacking anyone. He wants you to stereotype him.

I learned this lesson from my patients. In England, young people who have committed so many crimes that they are sent to reformatories often tattoo an Indian-ink blue spot on their cheek, in the same way that Old Etonians wear ties. This marks them out after their release as people not to be trifled with. But among my patients were a number of young men who had never been in trouble with the law who tattooed themselves with the blue spot. They did this for one of two reasons, or for both: Breaking the law sufficiently frequently to have been sent to reformatory carried a kudos in the area in which they lived, evil in those areas having become the new good; or they wished to appear more aggressive and violent than they were, as certain butterflies mimic poisonous varieties so that birds will not eat them. If you want to be left alone, look dangerous.

Attempting to look tougher than you are, or more aggressive than you are inclined to be, has its dangers. I had a patient who had the words "NO FEAR" tattooed prominently on the side of his neck, supposedly to convey the message that he was, despite his less-than-great size or muscular development, of ferret-like ferocity, and likely to attack at any moment for no reason. Unfortunately his supposed fearlessness was taken as a challenge by those who like to think of themselves as *bad bastards*, and he was four times landed in hospital by unprovoked or prophylactic attacks on him when he entered pubs. Removal of the offending tattoo was beyond his means.

The symbolic importance of apparel, and the simultaneous desire to be stereotyped for wearing it while avoiding the negative consequences of that stereotyping (that is to say, having your cake and eating it), was vividly illustrated recently in an incident in France, where it is now illegal to wear any form of dress that conceals the face. A young woman in Trappes, a town near Versailles, who was an Antillean convert to Islam, was walking in the town in a niqab when the police stopped her. What happened next is a matter of dispute (as it usually is in such incidents, with everyone believing what he wants to believe); but before long there were riots.

Commenting in the left-wing national newspaper *Libération*, a Muslim activist, Mohammed Mechemache, whose organization, ACLefeu (L'Association collectif liberté, égalité, fraternité ensemble unis, which is a homonym for *Assez le feu*, “enough of the fire”) was founded after the riots all over France in 2005, said that people were being excluded from society in France because of a bit of cloth, the niqab: to which one might reply, If it is only a bit of cloth why insist upon wearing it?

To read the website of ACLefeu is to hear the American arguments over the meaning of the Trayvon Martin killing in a French accent. Discussing the case of Zyed Benna and Bouna Traoré, aged 17 and 15 respectively, who were killed during a police car chase, the site says: “On Tuesday, 4 June 2013, the prosecutor asked for the case against the two policemen to be dismissed. . . . This decision, unfortunately one of many, undermines the honesty and the guarantee of impartiality of justice in our country, and once more this ‘verdict’ leaves a bitter taste of the reality of an unequal justice. The request for a dismissal strengthens the feeling expressed in working-class areas that the justice they confront is unequal.”

THE question boils down to this: Are stereotypes generalizations drawn from experience of actual behavior, or is that behavior a response to the stereotypes? In an unguarded moment, Jesse Jackson famously (or notoriously) revealed which side he came down on, what he really believed, when, rhetoric aside, he said: “There is nothing more painful to me at this stage in my life than to walk down the street and hear footsteps and start thinking about robbery. Then look around and see somebody white and feel relieved.” In other words, Jackson shared the stereotype that George Zimmerman is now so severely criticized for allegedly having had. (Actually, Jackson’s account of his own experience is inaccurate. What he was relieved at not seeing behind him was not a black person in general, but a young black man; a black woman or a middle-aged black man wouldn’t have worried him in the least.)

Stereotyping is inevitable in complex societies in which not everything can be known about every individual. It is a kind of mental shorthand, and like shorthand can be either accurate or inaccurate. The stereotype can be wrong in general or wrong in a particular case. Moreover, most people are apt to forget that from the mere fact that most *a*’s are *b*’s, it does not follow that most *b*’s are *a*’s—that is to say, from the fact that most people who get lung cancer smoke it does not follow that most people who smoke get lung cancer, any more than it follows from the fact that most white criminals are tattooed that all white tattooed people are criminals.

But stereotypes are useful as rough guides. It so happens that on the day before I wrote this, I appeared as an expert witness at a murder trial. There was a security check at the entrance to the courthouse but the security men gave me only the most cursory of inspections, on the grounds that 60-year-old men in business suits carrying bags full of documents are very unlikely to be bent on causing (physical) mayhem. But they searched very thoroughly the man behind me, more than 30 years my junior, tattooed, with a chunky gold chain around his neck and several rings that might have doubled as knuckledusters, a shaved head, scarred face and scalp, unnecessary gold dentistry, and eyes that sparkled with malignity. Lombroso would have had a field day with him.

In short, they profiled him, without necessarily knowing that that was what they were doing; and since violence and intimidation in public areas of the courthouse are far from unknown, it is difficult to see the different way in which we were treated as completely unreasonable. If you don’t want to be taken for a thug, why go to such efforts to look like one? It is very unlikely that the man did not know that he looked like a thug.

Once inside the courthouse, it was not very difficult to distinguish, physically, between those on the wrong side of the law and their legal advisers. There were a lot of people present (all white, incidentally) to whom, on the basis of stereotyping, you would have given a wide berth on a dark night. Indeed, you would have been a fool not to. It was, however, far more difficult to distinguish, physically, the families of the perpetrators from the families of the victims. They looked, on the whole, very much the same types. And this was a timely reminder that the main victims of crimes are those who are close, geographically and socially, to the criminals who commit them.

In other words, the main victims of crimes committed by blacks in the United States are blacks, not whites. And the statistical chance of a young black man’s being killed by a white assailant is very slender (now that the dreadful days of lynching are over) by comparison with his chance of being killed by another young black man. Jesse Jackson’s stereotyped thinking when he heard the footsteps behind him acknowledged this truth.

It is not wrong to stereotype; it is wrong—foolish and sometimes wicked—to allow stereotypes inflexibly to trump evidence. There is no reason to think that George Zimmerman did this. He must have known that not all black people in the gated community should be suspect, because he knew that 20 percent of the residents were black. Moreover, a few years earlier he had protested against the maltreatment of a black man by the police. His suspicion of Trayvon Martin was therefore specific to Martin, even if he thought that young blacks were more likely to be criminal than young whites. (Would he have reacted in the same way had Trayvon Martin been white? I cannot prove it, of course, but I think he would have.) If Zimmerman’s conduct is to be reprehended, it is for foolishness or worse, not for acting unjustifiably on a stereotype.

President Obama’s inelegant and imprecise impromptu remarks illustrate, however, the dangers of inflexible thinking in stereotypes (though also, possibly, the political usefulness to demagogues of such thinking). He said: “I think it is important to recognize that the African-American community is looking at this issue through a set of experiences and a history that doesn’t go away.” Of course it doesn’t go away if you believe, a priori, that everything that happens is a reenactment of it. **NR**

Justice for The System

*There is no institutional racism
in our courts and police stations*

BY IAN TUTTLE

IN our criminal justice system, African Americans and whites, for the same crime . . . are arrested at very different rates, are convicted at very different rates, receive very different sentences.” That supposed fact has spread far and wide—last year 84 percent of blacks in a *Washington Post/ABC News* poll said that the system treats whites and minorities differently—and has even filtered to the highest ranks: The words quoted above were spoken by one Barack Obama while he was running for president in 2008.

This belief might seem reasonable in the light of a cursory examination of incarceration data. According to the Bureau of Justice Statistics, blacks made up 36 percent of the 1.54 million prisoners in state and federal correctional facilities at the end of 2010, though they made up just 13 percent of the general population. As critics point out ad nauseam, there is a disparity. But why?

Michelle Alexander, a law professor at Ohio State University, blames “the new Jim Crow.” Her book by that title argues that the “basic structure of our society” has not changed since the days of segregated water fountains, merely “the language we use to justify it.” Because “today it is perfectly legal to discriminate against criminals in nearly all the ways that it was once legal to discriminate against African Americans,” our criminal justice system has simply labeled “people of color” “criminals” and perpetuated America’s “racial caste.”

Invoking Jim Crow—it seems to be part of Al Sharpton’s daily routine—is an evocative but problematic comparison, not least because Jim Crow laws were blanket restrictions on innocent Americans, while incarceration is a punishment meted out to criminals because they have committed a crime. Accusations of institutional racism upend debate by presuming the criminal justice system guilty. One can understand why black Americans distrusted the system in the years immediately following the Civil Rights Act, which sought to end an era when blacks were harassed without cause, convicted of exaggerated charges, and condemned to overlong prison terms, and when whites who victimized them were frequently let off, sometimes scot-free. But half a century on? Is there still reason to presume prejudice?

START with the cops.

In his speech to the NAACP national convention in July, Attorney General Eric Holder said that circumstances required his father to explain to him “how, as a young black man, I should interact with the police,” and that he

recently had the same conversation with his own son. The day before, on MSNBC’s *Martin Bashir*, New York congressman Charles Rangel (D.) declared that “if the police had got a black [George] Zimmerman, the question would be whether they would have beat him to death.” Accusations of racial profiling have motivated resistance to New York City’s “stop and frisk” measure; more broadly, many blacks claim to be subject to their very own moving violation, “DWB”: driving while black.

Anecdotal evidence is cited often, but the data offered as proof of racial profiling are not convincing. In a 2012 paper published in the *Loyola Journal of Public Interest Law*, William Quigley offered a typical example of the poor reasoning in this debate by comparing arrest rates among blacks with their portion of the general population. The ACLU had accused Philadelphia cops of racism 15 years before based on a study with the same flaw. The problem with such racial-profiling statistics, Hoover Institution scholar Thomas Sowell has observed, is that they are “based on blacks as a percentage of the population, rather than blacks as a percentage of the people who do the kinds of things that cause police to stop people and question them.” By Quigley’s logic, women should account for half of arrests.

Furthermore, as Heather Mac Donald pointed out in a 2008 essay for *City Journal*, studies of a wide range of crimes have found that victims’ descriptions of their assailants line up with arrests, suggesting that people generally are not arrested for crimes committed by people of other races. If cops *were* racist, a racial imbalance in arrest rates would be more likely to appear in property crimes, where the victim is less likely to be able to give a description. In fact, FBI statistics show a smaller racial disparity in arrest rates for property crime than for violent crime.

New York City’s stop-and-frisk program is a good example of racial-profiling alarmism. As New York City police commissioner Ray Kelly has observed, blacks make up just over half of persons stopped, but victims describe black assailants in seven out of ten violent crimes—suggesting that blacks are actually under-stopped. Moreover, the program is much more vigorously applied in high-crime areas, which tend to have higher minority populations. Police go where the crime is.

Robert L. Werling and Patricia A. Cardner presented another relevant finding in a 2013 paper in the *International Journal of Criminology and Sociology*: Minorities are disproportionately likely to call the police, just as they are to use social services generally. This alone would tend to bring police disproportionately to minority areas, but its effect is augmented by the police practice of allocating more resources to areas with more calls for service.

WHAT about at trial? Do prosecutors overcharge minority defendants? And do judges oversentence them?

In 1997 Robert Sampson and Janet Lauritsen published an influential study on this topic in the journal *Crime and Justice*. Reviewing the abundant literature on charging and sentencing available at the time, they found “little evidence that racial disparities result from systematic, overt bias.” Yet liberal outfits such as the Sentencing Project and the Center for Constitutional Rights continue to flaunt racial disparities in sentencing as evidence of just such bias. Isolating the influence of race is very difficult given the number of factors that contribute to charging and sentencing decisions. Still, the numbers are

worth considering.

A report published in 2012 by the U.S. Commission on Sentencing found that prison sentences for black men were, on average, almost 20 percent longer than those for white men for similar crimes; and the Commission had documented previously that blacks were more likely than whites to be charged with crimes that had mandatory minimum sentences. But the Commission warned against interpreting the numbers as evidence of racial discrimination.

In a working paper released in 2012, law professor Sonja Starr and economics professor Marit ReHAVI studied a sample of 58,000 federal cases, including property crimes, violent crimes, and weapons and regulatory offenses. They found that 83 percent of the sentencing disparity between blacks and whites could be explained by differences in criminal record, the arrest offense, gender, age, and location. The disparity that remained was a result of charging differences. Starr and ReHAVI say there is no indication that disparate charging is a result of racial discrimination; there are, they note, other relevant factors that might not appear in the data.

Lauren Shermer, of Widener University, and Brian Johnson, of the University of Maryland, published a study in 2009 that looked at federal charging and found that a defendant's race did not affect U.S. attorneys' decisions to reduce charges. Travis Franklin, of Sam Houston State University, found the same to be true of prosecutors' decisions to drop charges at the state level.

CRITICS of the criminal justice system may concede these numbers but reply that racism exists in the criminal code itself as a result of the war on drugs. Wrote Michelle Alexander in *The Nation*, "The drug war was part of a grand and highly successful Republican Party strategy of using racially coded political appeals on issues of crime and welfare to attract poor and working class white voters who were resentful of, and threatened by, desegregation, busing, and affirmative action." That is, the drug war had nothing to do with an increase in the amount of drugs or a crack crisis in impoverished black communities; it had to do with locking up black people.

But according to political scientist John J. DiIulio Jr., writing in *City Journal*, "the data tell a different story. In 1980 [before the drug war], 46.6 percent of state prisoners and 34.4 percent of federal prisoners were black; by 1990 [four years into it], 48.9 percent of state prisoners and 31.4 percent of federal prisoners were black." Looking at more recent data, Mac Donald noted, "In 2006 blacks were 37.5 percent of the 1,274,600 state prisoners. If you remove drug prisoners from that population, the percentage of black prisoners drops to 37 percent." Not exactly damning evidence that blacks have been disproportionately victimized by drug-law enforcement. Nor was the drug war the main reason for the increase in the number of black prisoners. From 1980 to 1990, when authorities were supposedly swooping down to arrest every teenager on Harlem's streets, violent crime was a greater contributor to the increase in state-prison populations (which hold the vast majority of prisoners) than was drug crime.

Mandatory minimum federal sentences are also often cited as an indication of the drug war's racism, since they penalize possession of crack cocaine much more severely than possession of powder cocaine, and the former has been more common in black communities. But you could typically avoid the mandatory min-

imum if you met three conditions: Don't hurt anyone, don't have a gun, and don't lie to the police. In 2006, only 15.4 percent of crack defendants met these conditions, as opposed to nearly half of powder-cocaine defendants. Congress appears to have been justified in viewing crack as the greater problem. The sentencing disparity was in any case dramatically reduced by the Fair Sentencing Act, signed into law by President Obama in 2010.

As for the myth of a white-Republican conspiracy, it was the Congressional Black Caucus that pushed the 1986 Anti-Drug Abuse Act and, two years later, the creation of the Office of National Drug Control Policy administered by a "drug czar"—a term coined, approvingly, by Senator Joe Biden in 1982.

Some allege that the drug war's targeting of blacks has moved to a new drug. In June the ACLU published a study that found that blacks are 3.7 times more likely to be arrested for marijuana possession than whites, despite similar usage rates. This much-touted report, though, does not control for "individual characteristics of each arrest, such as amount of marijuana possessed and the age and criminal history record of the individual arrested," leaving that to "a more scholarly analysis." But those characteristics are crucial to making an accurate determination of the cause of the disparity, which the study does not purport to do; it is "a purely descriptive analysis." Nonetheless Ezekiel Edwards, director of the ACLU's Criminal Law Reform Project and lead author of the report, claims that the study confirms racial profiling—a pronouncement that has, in turn, been propagated by uncurious media. The further questions in need of study are myriad, and the reliable studies are few. Since police are likely to focus more on marijuana sellers than on users, are blacks more likely to sell? Are they more likely to use or sell in the open, rather than secretly? Are they using or selling in areas where there is a greater police presence? If the answers align with those for other kinds of arrests, there is little reason to attribute the racial disparity in marijuana arrests to discrimination.

IN the end, the cause of the racial disparity in the criminal justice system is simple: A disproportionate share of blacks are in prison because blacks commit a disproportionate share of crimes. This is what Sampson and Lauritsen concluded a decade and a half ago, and study after study since then has supported their conclusion. According to the latest U.S. Census Bureau data, the white-to-black ratio in the general population is 5.9 to 1. In the prison population as of year-end 2010 it was 1 to 1.18—that is, of the 1.6 million state and federal prisoners, 499,600 were white and 588,000 were black. To match the white-to-black ratio of the general population, the population of black prisoners would have to fall to 84,678—that is, by 85 percent.

Are 85 percent of the current black prison population victims of racism?

None of this is to deny the existence of racist cops, racist attorneys, racist jurors, and racist judges. But unlike that of the Jim Crow era, any racism in the criminal justice system today cannot be shown to be institutional, and it is likely to be corrected by the many checks within the system.

As accusations of entrenched prejudice extending from the squad car to the jury box persist, those who know the facts can only continue to present their case and do their best to get the evidence a fair trial.

NR

Cause for Depression

A monetary history of our recent economic travails

BY RAMESH PONNURU

MORE than five years into the depression that is the dominating fact of our economy, we still have no clear picture of its causes.

The consensus is that the bursting of a housing bubble was to blame. Borrowers started to walk away from mortgages based on inflated home prices, and financial companies had to write down the value of securities based on those mortgages. That's what led to the financial panic of late 2008 and early 2009, and the seizing-up of credit markets in turn sent unemployment soaring. This is the explanation to which President Obama alluded in a July 24 speech on his economic agenda.

Many analysts on the left and right accept this basic story but disagree about what caused the mortgage bubble. Conservatives tend to emphasize Fannie Mae, Freddie Mac, and the Federal Reserve's low-interest-rate policy. Liberals tend to emphasize predatory lenders who tricked people into borrowing more than they could afford, Wall Streeters who took on too much risk, and regulators who allowed all of it to happen. These are not mutually exclusive explanations, of course, so it is possible to mix and match.

Yet it may be that both sides are mistaken, and mistaken precisely in their point of agreement: that the housing boom and bust is the fundamental explanation for our recent economic troubles. It may be that this crisis was indeed brought to us by government policies, but not the ones that the dominant voices on either side of the political divide have in mind.

If so, it will not be the first time that an economic depression was misunderstood by the people living through it. The modern view of the Great Depression, held by almost everyone in the field of economics, is that monetary contraction was the chief cause of the disaster. At the time, though, the prevailing view was that the depression resulted from a stock-market crash and banking crisis that in turn resulted from financial speculation.

Contemporary observers, including most influential economists, certainly did not see extremely tight money as the root cause of the Depression. Indeed, they did not believe that money was tight at all. Interest rates were very low, and the monetary base was growing: both things that many people, then and now, associated with expansive monetary policy. Officials and commentators worried that loosening money—loosening it, they thought, still further—would lead to more of the speculation that had started the calamity.

It was not until decades later, with the 1963 publication of

Milton Friedman and Anna Schwartz's *A Monetary History of the United States*, that the monetary mistakes of the era were understood. Interest rates were low not because money was loose but because it was tight: Monetary contraction had depressed the economy and thus expected returns to investment. While the monetary base had indeed increased, the collapse of banking meant that the broader money supply, a large portion of which is credit extended by banks, was plummeting. At the same time panic had sent the public's demand for money balances soaring. So the total amount of dollars being spent in the economy, on either consumption or investment, fell.

That decline raised the burden of debts for borrowers and wages for employers—since it meant fewer dollars coming in to pay either. Businesses went bankrupt; unemployment rose; production dropped. Tight money also crashed asset values, since those values are based on expectations of future income streams that depend on the amount of money being spent. The process fed on itself. Economic contraction led to bank failures and thus to a smaller money supply; rising unemployment and falling stocks led to more panic and thus more money hoarding.

The stock-market crash wasn't the fundamental cause of the Great Depression: At most it was a sign of the trouble to come. (In 1987 we had a market crash but better monetary policy, and the economy kept humming along.) The bank failures weren't the cause of it either but a symptom: Economic contraction was well under way before they began.

CAUSE and effect in the events of the last few years need to be similarly untangled. The timeline does not really fit the standard, housing-centric view of the crisis. The housing market peaked in mid 2006. In his contribution to *Boom and Bust Banking*, a book on the crash, Scott Sumner summarizes the results for the broader economy over the next few years:

After the housing market peaked in mid-2006, construction of new homes declined steadily for several years. By 2007, prices were falling in many of the so-called "subprime markets" (California, Nevada, Arizona, and Florida). This put increasing stress on the U.S. banking system. By April 2008, the IMF (International Monetary Fund) estimated total losses at \$945 billion, and a major investment bank (Bear Stearns) was bailed out by the federal government.

The severe and prolonged housing slump from mid-2006 to mid-2008 did not produce a major recession. Although the business cycle peak was officially dated as December 2007, by mid-2008, unemployment had risen only modestly, and most forecasters continued to predict economic growth ahead. In the second quarter of 2008, real GDP continued to grow. This is how market economies are supposed to work. When there has been overinvestment in one sector (housing), resources should migrate into those sectors that are still booming (services and exports). And that is precisely what did occur for a period of about two years, as the housing sector declined in a very orderly fashion.

It wasn't until the summer of 2008 that the bottom started to fall out from the economy. All the signs of impending deflation started to appear. Inflation expectations, as measured for example by the difference between the yields on bonds in-

dexed for inflation and bonds not indexed for it, fell. So did commodity prices. The dollar appreciated. The decline in housing prices accelerated and spread. Stocks, which had been falling since autumn 2007, started falling faster.

During this time, Federal Reserve officials nonetheless expressed worry about inflation. Market expectations of future inflation may have been falling, but backward-looking indicators were telling a different story. Energy and food prices had gone up, and so had the Consumer Price Index. (Sumner points out that the CPI ended up grossly overestimating inflation. The calculation of the CPI included an estimate that housing prices had *increased* from the middle of 2008 to the middle of 2009.)

One way monetary policy affects the economy, and arguably

Depression. And as in the Depression, most observers did not see that the Fed was being tight at all. The monetary base rose rapidly as the Fed bailed out the banks—but the overall economy wasn't given the monetary ease it needed. The inflation that so worried the Fed, meanwhile, never materialized. In the nearly five years since Lehman collapsed and the Fed warned about inflation risks, we have had the lowest inflation rates since the mid 1960s. The forward-looking, market-based indicators turned out to be right.

None of this means that housing was unimportant in the crisis. One of the ways tight money hurt the economy was by making mortgage debts a larger burden than people had expected when they contracted them. A level of debt that

Our **dismal economic experience** of recent years has been brought to us by the federal government, which has wreaked havoc through mismanaging the money supply.

the crucial way, is by shaping expectations. When the Fed creates an impression about future spending levels, it affects the spending that people undertake today in anticipation of that future. So when the Fed suggests that it will pursue a tighter policy in the future, it is effectively tightening money in the present. Even when it cuts the federal-funds rate, it may be tightening money if markets had projected a sharper cut.

By mid 2008 the Fed had been effectively tightening for months. In December 2007 the Fed cut the federal-funds rate by less than markets had expected. During the summer Fed officials made inflation-phobic comments that led informed market participants to expect a tighter policy in the future. The minutes of the August 2008 meeting declared that “members generally anticipated that the next policy move would likely be a tightening.” Current policy was “passively” tightening as well: As the economy deteriorated, the distance between the looseness it needed and what the Fed was providing increased.

Even after Lehman Brothers collapsed in September 2008, the Fed refused to cut the federal-funds rate and issued a statement citing the risks of inflation. Market expectations of inflation fell further. The Fed would not cut rates until October 8, weeks after the crisis had started to dominate the news—and even that decision followed a contractionary move, the October 6 decision to pay banks interest on excess reserves, which discouraged bank lending.

Markets had no reason to have any confidence that the Fed would continue to keep total spending throughout the economy rising at a steady rate, as it had more or less done for the previous quarter-century. Indeed, spending started to fall in June 2008, months before Lehman's collapse, and ended up declining at the fastest rate since “the recession within the Depression” of 1937–38. Tight money—that is, reduced expectations of future spending—made everything worse. It depressed asset prices and raised debt burdens, adding to bank losses and making households more fearful about spending.

Housing did not cause the financial crisis, in other words. The Fed did. The Fed may not have caused the recession, but its excessive tightness caused what could have been a mild recession to become the worst one since the Great

seems manageable when nominal incomes are rising 5 percent a year, as they had been doing before the crash, becomes a millstone when incomes are falling. But we could have had a housing-market crash that did not lead to falling total-spending levels and a severe recession. We could not, on the other hand, have had falling spending levels without a severe recession.

During these five years many economists and institutions have been ridiculed for having suggested, beforehand, that the economy could easily handle the decline of housing prices. Yet these forecasts weren't wrong—or, if they were wrong, they erred only in implicitly relying on the Fed not to botch its job. The common wisdom that “financial crises lead to slow recoveries,” as applied to our economy, also understates the role of the Fed. Instead, very tight money led first to a financial crisis and then to a slow recovery.

Seeing the Fed's true role in the crisis helps to put some proposals for preventing another crisis in perspective. The financial industry may need to be reformed in various ways, and Fannie and Freddie may need to be unwound. Getting monetary policy right, however, should be a higher priority. And conservatives have a particular stake in this issue.

Our dismal economic experience of recent years has been brought to us by the federal government, which has wreaked havoc through mismanaging the money supply. Yet the public seems to have sided, hazily, with the view that free-market excess was responsible for the dismal economy of the past five years. Hence Vice President Joe Biden could get away, during last year's vice-presidential debate, with the laughable claim that the sharp recession was the result of the Bush administration's tax cuts, wars, and prescription-drug benefit. Republican politicians have not thought it worth trying to get the public to change its mind—and have themselves been obsessed by the idea that the Fed is too loose and that inflation is just around the corner.

The failure of the federal government's tight-money policies has thus abetted the further expansion of that government. It is another unhappy parallel to the 1930s. Let's hope we do not have to wait until 2042 for a new Friedman and Schwartz. **NR**

Et in Arcadia Ego

How sexual mutilation became a civil right

BY KEVIN D. WILLIAMSON

ON July 24, 2013, the U.S. Department of Justice announced that it had reached an agreement with the public-school district of Arcadia, Calif., for the resolution of certain “sex discrimination” claims. The case involves a girl who desires to use boys’ facilities, such as restrooms and locker rooms, to be housed with the boys in “sex-specific overnight accommodations at a school-sponsored trip,” etc. In doing so, the DOJ cites Title IX of the Education Amendments of 1972 and Title IV of the Civil Rights Act of 1964, which, in the department’s words, “prohibit discrimination against students based on sex.” But the girl is not being discriminated against because of her sex. Even the DOJ implicitly concedes as much. Rather, the problem is her “gender identity,” which is, the DOJ reports, male. Having invoked those magic words, the DOJ is empowered to commit violence upon language and reason both, describing its investigation into “allegations of discrimination against a transgender student based on the student’s sex,” that being the sex of a student “whose gender identity is male and who has consistently and uniformly presented as a boy at school and in all other aspects of his life for several years,” and who henceforth “will be treated like other male students.”

The DOJ has placed its imprimatur upon a fantasy involving a legendary creature: the person of one sex trapped in the body of a person of another sex.

It is not an entirely new legend, nor one without some basis in reality. The Roman emperor Elagabalus is (according to the seriously dubious historical resources available to us) said to have offered half the empire to any physician who could effect a sex change upon his person (“by means of an anterior incision,” in the wincingly clinical phrase of Cassius Dio), but, having failed that, had to content himself with cross-dressing and referring to himself in the feminine. Times being what they were, the Romans could put up with a great deal of depravity from their emperors, but were said to have been particularly piqued by Elagabalus’s insistence that he was the empress of Rome intending to make his husband (a favorite slave) the emperor. The emperor Nero had ordered the sex change of a male slave who resembled a woman he favored, according to an almost certainly fictitious account. The myth of Tiresias we all know, as well as the many classical characters, such as Attis, and Jupiter, who assumed female form when seducing Callisto. (The offspring of that union produced Arcas, namesake of Arcadia, both the one in Greece and the one in California.) There are tales of sex change in the *Mahabharata*. And we have the real-world experiences of those such as François Timoléon, abbé de Choisy, the notorious French cross-dresser, who wrote in his memoirs: “I thought myself really and truly a woman. I have tried to find out how such a strange plea-

sure came to me, and I take it to be in this way. It is an attribute of God to be loved and adored, and man—so far as his weak nature will permit—has the same ambition, and it is beauty which creates love, and beauty is generally woman’s portion. . . . I have heard someone near me whisper, ‘There is a pretty woman,’ I have felt a pleasure so great that it is beyond all comparison. Ambition, riches, even love cannot equal it.”

The abbé de Choisy is the sort of man that Dr. Paul R. McHugh had in mind when he wrote: “When you discuss what the patient means by ‘feeling like a woman,’ you often get a sex stereotype in return—something that woman physicians note immediately is a male caricature of women’s attitudes and interests. One of our patients, for example, said that, as a woman, he would be more ‘invested with being than with doing.’ It is not obvious how this patient’s feeling that he is a woman trapped in a man’s body differs from the feeling of a patient with anorexia nervosa that she is obese despite her emaciated, cachectic state. We don’t do liposuction on anorexics. Why amputate the genitals of these poor men? Surely, the fault is in the mind, not the member.”

Dr. McHugh became a controversial figure in the 1970s when he was the chairman of the psychiatry department at Johns Hopkins University and set about dismantling its “Gender Identity Clinic,” which was established in 1965 and performed what we all have agreed to call “sex-reassignment surgery,” a term that begs the question. Sex is a biological feature that is present at the level of DNA. That fact is known even to Barack Obama’s Justice Department, which in April disclosed through an anonymous leak (of course) that it had discovered “female DNA” at the site of the Boston-marathon bombing. The ladies and gentlemen at Eric Holder’s disposal did not ask the DNA whether it identified as male or female, but instead took a look at the chromosomes, which answered the question for them. A sample taken from any man or woman could be used in precisely the same way, regardless of how that person self-identifies. Feminists have long argued that biological sex and social gender should be considered disconnected, but as a matter of law (and more than law) we are expected to treat them as a unified phenomenon: Eric Holder’s DOJ argues that the case in Arcadia is one of sex discrimination, even though there is no serious question as to the sex of the girl in question. By this standard, not only is it sex discrimination to treat a girl as a girl when she desires to be treated as a boy, it is sex discrimination to maintain such categories to begin with.

We have created a rhetoric of “gender identity” that is disconnected from biological sexual fact, and we have done so largely in the service of enabling the sexual mutilation of physically healthy men and women (significantly more men) by medical authorities who should be barred by professional convention if not by conscience from the removal of healthy organs (and limbs, more on that later), an act that by any reasonable standard ought to be considered mutilation rather than therapy. This is not to discount the feelings of people who suffer from gender-identity disorders—to the contrary, those feelings must be taken into account in determining courses of treatment for people who have severe personality disorders. But those subjective experiences do not render inconsequential the biological facts: A man who believes he is a woman trapped in a man’s body, no matter the intensity of his feeling, is no such thing. The duty of the medical profession is not to encourage and enable delusions, but to help those who suffer from them to cope with them. It is worth noting here that

as a matter of law and a matter of social expectation, the *fiction* of sex change is treated as the paramount good: We are not expected to treat those who have undergone the procedure as men who have taken surgical and hormonal steps to impersonate women (or vice versa) but as people who have *literally changed sex*, which they have not—no more than Dennis Avner, the famous “Stalking Cat” who attempted to physically transform himself into a tiger, changed species.

UNHAPPILY, we are poised to move in the opposite direction. Medicare currently does not cover sex-reassignment surgery, but it is considering changing that policy. In March, the Department of Health and Human Services solicited public comment on the possibility of reversing the government’s policy of not paying for sex-reassignment surgery. It quickly withdrew that proposal after media reports, but is reviewing an administrative challenge to its characterization of sex-reassignment surgery as “experimental” and therefore ineligible for Medicare coverage.

Even if we were to believe that a course of medical mutilation could make someone happier, this therapy seems often not to be therapeutic. A large number of those who undergo sex reassignment, as many as one in four by some estimates, pronounce themselves unhappy with the procedure. Dr. McHugh in a 1992 essay wrote about its long-term consequences: “Age accentuates the sad caricature of the sexually reassigned and saps their bravado. Some, pathetically, ask about re-reassignment.” Dr. James Bellringer, a British physician who has performed hundreds of sex-reassignment surgeries at the Charing Cross Hospital gender-identity clinic, points out in defense of the practice that about one-fifth of those who are denied the procedure attempt suicide; but a study conducted by the British National Health Service found practically identical—18 percent—suicide-attempt rates for those who had undergone the procedure. (Mr. Avner, whose feline transformation also took a toll on his personal life—“Being a tiger is more important to me than humanity, which is difficult for many women to cope with”—was found dead of an apparent suicide.) The Aggressive Research Intelligence Facility, which advises the NHS on the effectiveness of treatments, conducted a broad review of the research literature and “found no robust scientific evidence that gender reassignment surgery is clinically effective,” according to the *Guardian*, the liberal newspaper that commissioned the review. A study by the scholarly journal *BJUI* (formerly the *British Journal of Urology*) found that some 24 percent of those who undergo reassignment reported that they were unhappy with the cosmetic results, and 20 percent reported that they were in general dissatisfied with the procedure. Those numbers would be high for nose jobs or breast implants; they are sobering for a course of therapy that involves elective amputations.

On that subject, elective amputations of healthy arms and legs are quietly offered as “treatment” for something we are expected to call Body Identity Integrity Disorder, which is “characterized by a burning and incessant desire to amputate an otherwise perfectly healthy limb,” in the words of Mo Costandi, a neurobiologist who writes a science column for the *Guardian* and advocates the procedure. The stories of these amputees trapped in amputationless bodies will sound familiar. “To date, there have been approximately 300 documented cases of BIID,” Mr.

Costandi writes. “Most of these are male, almost all of whom desire amputation of a limb on the left side of the body. More often, it is the arm that is affected rather than the leg. All of these so-called ‘wannabe amputees’ know exactly where they want the limb to be cut off, to the millimetre, and almost all of them remember seeing an amputee at a very young age and thinking that they should have been born like that themselves. ‘When I was 3 years old, I met a young man who was completely missing all four of his fingers on his right hand,’ said one 21-year-old female BIID sufferer, ‘and ever since that time I have been fascinated by all amputees, especially women amputees who were missing parts of their arms and wore hook prostheses.’” Another patient says, “My left foot is not part of me.” (But it is.) There is a sexual component in many (but not all) of these voluntary amputations, a fetish documented as far back as in Richard von Krafft-Ebing’s *Psychopathia Sexualis* (1906).

As with the invention of “personhood” in the abortion debate, we have created a metaphysical category—“identity”—in order to avoid talking about physical reality. In the case of sex-reassignment surgery, it is gender identity; in the case of those who want their left legs removed, it is body-integrity identity. The latter may seem shocking and exotic, but the former is no more defensible. But the question of sex reassignment is linked rhetorically and politically to the question of gay rights, though homosexuality is an entirely distinct and separate phenomenon under the emotional shadow of civil rights. It is a measure of the intellectual degradation of our times that the physical reality of these cases is considered, if it is considered at all, a distant second to the subjective impressions of people who are, not to put too fine a point on it, mentally ill and in need of treatment.

We cannot think because we cannot speak. Having lost the words for things, we lose the things themselves. The word “gender” as a replacement for the word “sex” is a new development in the English language, dating from the early 1960s, not coincidentally the period during which the normalization of sex reassignment began to gain real momentum. “Gender” is a linguistic twin of the word “genre,” the two descending in parallel from the Latin “genus” via the Old French “gendre.” This was partly the natural evolution of the language—as the word “sex” began to denote erotic acts themselves, there was an opening for a word to describe the categorical differences between the male and the female. But it is not an accident that a literary term received the promotion over a scientific one: “Gender” overtook “sex” linguistically at the same time that “gender,” which denotes male–female differences that are, in the debased language of the time, “socially constructed,” overtook “sex,” which denotes male–female differences that are biological, as a guiding consideration. Every battle in the war on reality begins with the opening of a new linguistic front.

That leaves us in the unhappy position described by Dr. McHugh: “The zeal for this sex-change surgery—perhaps, with the exception of frontal lobotomy, the most radical therapy ever encouraged by twentieth-century psychiatrists—did not derive from critical reasoning or thoughtful assessments . . . [but from] the ‘illusion of technique,’ which assumes that the body is like a suit of clothes to be hemmed and stitched to style.” And not just the body: The family and society are as much the products of evolution as the body is, and attempting to reconstruct them in the image of the Venus de Milo—arms optional—with contempt for the underlying reality will yield ghastly results. **NR**

Rahs and Rah-Nots

MICHAEL SHULAN, creative director of the 9/11 Memorial Museum, said he almost didn't include the famous photo of firefighters raising the flag because it was too "rah-rah." One "rah" is okay, but two? Please. According to a forthcoming book on the subject, he said, "I really believe that the way America will look best, the way we can really do best, is to not be Americans so vigilantly and so vehemently." Right. If guys like him had been around in '45 they would have restaged the Iwo Jima photo for race, gender, and sexual preference. Inclusiveness is great, unless you're overrepresenting the double-"rah" Vehement-American community.

He is a silly man. But this is the silly season. The dead spot in the summer when nothing happens and things get crazy and trivial—you know, like that summer when Iraq invaded Kuwait. Downright madcap! This year's silliness has been depressing, though; let's take a look at the dreary tales that have occupied our weary minds for the last few months.

1. No one cares about Anthony Weiner broadcasting his dangly bits, because that's what he does. Here's a guy who gets a warning from his carrier that he's approaching his cell-phone data limit and thinks it's a testament to his endowment. No one cares that his wife is a super-human ultra-capable glamorous D.C. power wife, because the only thing more squirmy than a dweeb with delusions of glandeur holding a press conference to say it shouldn't matter is the sight of his wife at the same event pretending she didn't want to beat him to jam with a rolling pin. At least for once you can say, "Boy, I really didn't enjoy that excruciating Weiner presser," and people know what you mean.

There was one revealing moment, though. Well, there were dozens of revealing moments, which was the problem, but also this: Asked by the *Staten Island Advance* how the scandal might affect his son someday, he laughed it off: "The kid's going to be growing up in Gracie Mansion."

Because that trumps everything, doesn't it?

2. No one cares about Detroit. The reason this story doesn't register with more people is simple: "Detroit Declares Bankruptcy" is like an obit for someone described last year as "The World's Oldest Man." They made their featherbed, now lie in it.

Ah, but there's rhetorical hay to thresh. It's the Right's fault, you know. This is what it looks like, said one lefty cable-babbler, when you get government small enough to drown in a bathtub. Which would be relevant except you can't fill the bathtub because the pipes broke 20 years ago, and no one fixed them because the money went to pensions, or a city initiative to tell people to shower outside

when it rained. Besides, the Tea Party hates municipal utilities! Some gummint busybody comin' on your property, drillin' holes, layin' pipes to test your elevator cables? Where does it say anything about water in the Constitution?

That's what the Left thinks the Right thinks, anyway. When you point out that the trouble isn't the existence of, say, water-pipe inspectors, but the fact that they can go on disability at 45 for "chronic hangnails" and retire at 55 with benefits that cover full organ replacement with a buck-fifty co-pay, the Left will respond ZIMMERMAN SHOULDN'T HAVE FOLLOWED THAT CHILD. Or something as relevant and accurate.

What's next? The pensions may have to take a "haircut," the charming colloquialism that should make us call a guillotine a "styling comb." Swaths of the city may be leveled so the remaining residents can huddle around the center like hobos around a trash-can fire. A Russian plutocrat may buy six historic empty skyscrapers and amuse himself by ramming them with remote-controlled zeppelins. Who knows. Maybe they'll apply to join the euro zone; Greece would probably co-sign the application, since it would make them look positively Swiss when it came to the public purse. What's certain is that it reflects poorly on progressive governance, and hence holds no lessons for anyone anywhere.

3. Which brings us to the matter of the Tea Experiment. The Honest Tea Company, a division of Coca-Cola, conducted a nationwide test to see whether people would pay for the stuff at an unattended kiosk. Character, as the saying goes, is what you do when no one's looking, or Huma won't be home for an hour. In Alabama, 100 percent of the people who took a drink paid, which makes the sophisticates laugh: They no doubt think some imaginary Sky-being is looking over their shoulder. Most of the nation scored in the 90s or high 80s. Bottom of the list: Washington, D.C.

Stunning! A city whose chief industry is Confiscation abounds with people who feel entitled to take something without paying. Granted, a dollar is a lot to ask; you could get a whole house in Detroit for that. But it's telling. Perhaps D.C. residents assumed that the operator of the kiosk had his hours cut back because the employer was making everyone part-time to escape Obamacare, in which case the company should be penalized. Perhaps they realized it was a promotion and Coke would write it all off, in which case the government was actually subsidizing Big Tea, so they were entitled to a free one.

Expect things to get sillier as the month wears on, at least as far as the media are concerned. Oh, there's Benghazi, IRS, HHS, and all the rest, but covering those wouldn't be silly. That would be ridiculous, especially when there's a president to protect. Three cheers for him, by the way! Rah! Rah! Rah!

NR



The Long View

BY ROB LONG

TRANSCRIPT FROM THE AL JAZEERA POLITICAL TALK SHOW *THE AL-IRSHAD GROUP*: SUNDAY, AUGUST 4, 2013

HOST AL-IRSHAD: “Issue One! Weiner-riffic! In the aftermath of a series of degrading and degenerate scandals that have plagued the American political system, we can only marvel at the mercy of Allah, who has so far withheld the ultimate punishment. As of this moment, the entire island of Manhattan remains untouched by hell-fire. In the meantime, gentlemen, a political question. What should the Democrats do in the wake of these disgusting events? I ask you, Political Consultant Salil Faqtb.”

POLITICAL CONSULTANT SALIL FAQTB: “This is a demeaning question to ask of a man. Al-Irshad, you humiliate yourself. You are a homosexual Jew. Of course the answer is to be found in the Koran. If a man texts obscenities, let the offending texting thumb be removed. Why are you bothering us with these trivialities? Can we speak of more important topics? In Egypt—”

AL-IRSHAD: “And his wife? What should be done with her, I ask you, Syndicated Columnist Qu’Turush?”

SYNDICATED COLUMNIST QU’TURUSH: “She should be set on fire.”

SALIL FAQTB: “That goes without saying. But can we return to more weighty matters? In Syria, if anyone is interested—”

AL-IRSHAD: “Baath Strategist Ali Ba’Nasri, I ask you: Taken as a whole—the two major candidates for office in New York, a diseased pornographer and a whoremongering Jew moneylender, and the current mayor of the homosexual-infested

California city of San Diego are all stained by scandals of a revolting sexual nature. And all are prominent members of the Democratic party. How is it then that so far this party has escaped the wrath of the American press?”

QU’TURUSH: “Not this again. Look, let’s recognize that the press tries hard to be as fair as possible. I don’t know how they vote. Do you?”

SALIL FAQTB: “You are insane. Please set your lap on fire. The American Jew media is filled with homosexual prostitutes who see nothing wrong with sending photographs of the naked male sex organ through the Internet.”

QU’TURUSH: “That’s overstating it.”

SALIL FAQTB: “You say that because you are a homosexual prostitute.”

QU’TURUSH: “Die! Die you child of a pariah dog and a traveling ladyboy!”

SALIL FAQTB: “Madness! Why are we not talking about Egypt?”

AL-IRSHAD: “Ali Ba’Nasri, you’ve been waving your squiggly knife for many minutes. Do you have something to add?”

BAATH STRATEGIST ALI BA’NASRI: “Let’s be very careful here. The mayor of San Diego is accused of nothing more than being tempted by slatterns and loose women who cavort about in revealing garb, exposing ankles and necks and a lot more besides. What man wouldn’t reach out and grab at a woman who comported herself thusly? What man wouldn’t pinch and pat and rub and squeeze at the ladyparts so brazenly offered up? I’ll tell you what kind of man. A homosexual Jew American infidel son of a pig, that’s what kind. So leave the mayor of San Diego out of it.”

QU’TURUSH: “My nephew runs a Quiznos in San Diego. He says the

mayor is a decent guy. A little handsy, but as Brother Ali says, which one of us can cast the first stone?”

SALIL FAQTB: “I can! In fact I did, earlier this morning. A young lady in my family was found to have viewed a Justin Bieber video on the YouTube device, and so the family honor was maintained.”

QU’TURUSH: “She didn’t clear her browser history?”

SALIL FAQTB: “She was a good girl. She didn’t know how. Anyway, the point is, I’ve had more than enough of this Radical Islamism in Name Only. That’s what’s wrong with our movement today. All these RINOs making excuses for American political leaders and their pox-ridden sex parts. Let Allah infect them all with gaping sores!”

AL-IRSHAD: “Even the Democrats? Historically, they’re our best hope for sharia law in America.”

SALIL FAQTB: “Please. You’re dreaming. You are like the drug-addled beggar dervish eating camel dung and telling himself it’s dates. Can we now please talk of important things?”

AL-IRSHAD: “On a scale of one to ten, one being impossible and ten being metaphysical certitude, what is the likelihood that Allah strikes the Satan America down with a cleansing flame?”

SALIL FAQTB: “It is blasphemous to speculate on the actions of The One. But I’ll say nine.”

QU’TURUSH: “Three. It will fester and decay and rot for centuries until even its citizens tire of the stench.”

ALI BA’NASRI: “That will never happen. The American citizen has an unlimited tolerance for filth. So I’ll say five.”

AL-IRSHAD: “The answer is ten! But no one will notice! Bye-bye!”

Books, Arts & Manners

Life and Death on Basic Cable

JONAH GOLDBERG

NOSTALGIA plagues us all, but conservatives are particularly susceptible to it, for obvious reasons. When it comes to popular culture in particular, we tend to romanticize the past. The clichés spring to mind easily: *The music these kids listen to today! You can't even understand the words! Clark Gable, now there was a movie star!* And then, of course, there are myriad allusions to “the golden age of television.”

This last has always struck me as something of a misnomer. Most people tend to think that “Golden Age” means simply “the best.” But, according to the Greeks, from whom we get the term, the Golden Age didn't mean, necessarily, “the best.” It was, rather, the first age of man, a past age of innocence in which man lived in peace and prosperity. As the ages of man passed—the silver, the bronze, the heroic, and finally the decadent iron—things in general were not as good as they once were; but that doesn't mean the poetry got worse. Think of it this way: Adam and Eve clearly had a good thing going before the Fall, but that didn't mean TV was better before they bit the apple.

In other words, what made the golden age of television golden wasn't the caliber of the programming, but the innocence of the time. That doesn't mean there wasn't some fantastic stuff on the tube—there most certainly was—but the medium was also in its infancy, and it showed. First and foremost, technologically: The old rabbit-eared mono-speaker black-and-white jobs were really quite sad. And as for content, early network producers borrowed first from radio—*The Goldbergs*, *Dragnet*, etc.—and then extensively from the theater, which they saw as TV's closest analogue. *Kraft Television Theatre*, *Playhouse 90*, and other programs brought

everything from Shakespeare's plays to *Peter Pan* and *12 Angry Men* to a mass audience.

As great as all that was, it was nonetheless derivative. And, as TV matured, it also arguably got worse: The sitcoms of the 1960s and 1970s were on the whole not as good as those that would come in the 1980s and 1990s. The dramas of the Fifties, Sixties, and Seventies were an even more mixed bag. (Fans of *Bonanza* and *Charlie's Angels* may send their angry letters to the New York office of NATIONAL REVIEW.)

In the 1990s, things began to change. Shows like David Milch's *NYPD Blue* (whose nudity, unprecedented on broadcast television, helped inspire a Comstockish conservative reaction) and *Homicide: Life on the Street* were among the first clues that television was realizing its potential. The key was giving up on the idea that a story must be resolved at the end of each episode. Virtually every installment of *Dragnet* ended with the criminal in custody. *Little House on the Prairie* had always left the viewer with a resolution and a happy lesson. In the rare cases in which an episode ended with a “to be continued” or an end-of-season cliffhanger, you knew the next episode would answer all your questions. The one great exception was the soap opera, which never had any pretensions to be better than what it was.

In *NYPD Blue* and the shows that followed, both the story arc and the character arc stretched over whole seasons—and series. It's actually surprising that this development was so long in coming. It's hard to think of an artistic medium—particularly one with so many economic incentives behind it—that has taken as long to become truly self-confident. The delay can probably be explained by the fact that TV is in many ways not a new art form but a new combination of several old ones—photography, film, radio, the novel, the stage, etc. It took decades for writers to recognize fully that the whole could be so much greater than the sum of its parts.

That started to happen when pay-cable channels realized that unique programming was the best way to attract loyal viewers in an era when their monopoly on unedited Hollywood fare was crumbling,

owing to the Internet. Just consider HBO's *Game of Thrones*, admittedly an adaptation of a series of novels, but riveting, addictive, and hugely profitable in ways unique to television. In short order, TV has become, in the words of author Brett Martin, “the signature American art form of the first decade of the 21st century.” (This fact is causing a monumental panic in Hollywood as we speak. As John Podhoretz recently wrote in *The Weekly Standard*, Hollywood's distress isn't simply about a studio model breaking down, it's “that movies have lost their sexiness, their power, their position at the red-hot center of popular culture. Television is better now, and it kills them that television is better. And it should.”)

The key advantage television has over film is time: It can explore both characters and ideas in ways that are simply impossible in a two-hour movie. Shows like *The Sopranos*, *Deadwood*, *Mad Men*, *Friday Night Lights*, and *The Wire* simply would not work on the big screen. The result is a close visual approximation to a novel, which, unlike derivative miniseries (e.g., *Roots*, *Shogun*, *Lonesome Dove*), was intended from the outset to be on television, and which, unlike soap operas (even of the posh BBC/*Masterpiece Theatre* variety), lets actors and writers fully realize their potential.

THIS new art form is on impressive display in AMC's *Breaking Bad*, whose final eight episodes begin airing in August. It is the best show currently on television, and perhaps even the best ever. Moreover, it deserves special respect from conservatives. In a sense, it already gets that respect: It's relatively popular in red-state America. As David Segal noted in the *New York Times* in 2011, *Breaking Bad* gets nearly the same ratings as *Mad Men*, but New York and Los Angeles aren't even in its top ten cities. This prompted Segal to dub the show's creator, Vince Gilligan, TV's “first true red-state auteur.”

From the outset, Gilligan set out to tell a single story over several years. “Television is really good at protecting the franchise,” Gilligan told Segal. “It's good at keeping the Korean War going for

eleven seasons, like *M*A*S*H*. It's good at keeping Marshal Dillon policing his little town for 20 years. By their very nature TV shows are open-ended." Gilligan saw an opening for something different. He also thought. "Wouldn't it be interesting to have a show that takes the protagonist and transforms him into the antagonist?"

That is the idea behind *Breaking Bad*, the tale of Walter White, played brilliantly by Bryan Cranston—who had previously been known mostly as a very funny comedic actor (he was the Jewish-convert dentist on *Seinfeld* and the father on *Malcolm in the Middle*). It would be difficult to summarize all five seasons of the show in a brief space, nor am I eager to give away spoilers (though some of that will, alas, be necessary), so I will focus on the main character, who is in every respect the soul of the show.

When we meet Walter, he is a wildly overqualified high-school chemistry teacher who works part time at a car wash for extra money. (In what becomes a crucial plot device, Walter worked for a tech startup but took a stupid buyout for \$5,000. The company went on to be worth billions.) In the first 20 minutes of the first episode, he is diagnosed with terminal lung cancer. Impeccably decent and upright, Walter is confronted with the horror of leaving his wife, teenage son (who has cerebral palsy), and unborn daughter destitute. This medical and financial crisis leads Walter to a moral crisis. He gets the idea that he could use his skills as a scientist to cook methamphetamine, a.k.a. crystal meth. And not just *any* crystal meth: The once-promising professional chemist knows how to make meth better than anyone else. Gilligan has said that his "elevator pitch" for the show was to turn "Mr. Chips into Scarface."

The change that then takes place in Walter is so gradual, so human, that viewers are hard pressed to relinquish their fondness for him, even as he inexorably grows—*transforms* is probably the better word—into a monster. Gilligan calls it a "slow-motion wolfman story": The Dr. Jekyll of Walter White slowly turns into the Mr. Hyde of his street name "Heisenberg" (not coincidentally, an homage to the author of the uncertainty principle).

The idea of the antihero is hardly new, of course; but that's not what Walter White is. When we are introduced to Tony Soprano, we know he's the bad guy. The moral universe of the Sopranos is a given,



Bryan Cranston as Walter White in *Breaking Bad*

and despite all of Tony's struggles in therapy, he's ultimately incapable of being anything other than what he is. The same goes for the antiheroes of *The Wire*, *Deadwood*, and the far less laudable series *Dexter*. They all live by a code, are creatures of a system outside the borders of comfortable middle-class morality. Walter White is not like them. When we meet him, he's a decent man living deep within those borders. He's even a hero in the small ways good fathers, dedicated teachers, and faithful husbands are. And what he becomes is not an antihero but simply, straightforwardly, a *villain*. What begins as a kind of play on the Thomistic principle that it is moral for a man to steal bread to feed his starving child grows into a painfully realistic tale of how a good man becomes evil.

In the first season, Walter is confronted with the necessity—or "necessity"—of killing another human being. He has trapped a drug dealer in the basement of his partner, a former student of his who has turned into a lowlife meth-head, Jesse Pinkman. Despite establishing a rapport with the dealer, who goes by the handle "Krazy 8," Walter agonizes over what to do with him. Still the man of reason, he sits down with a notepad and writes up a list of pros and cons. Among the items on the list: "Con: MURDER IS WRONG!

Pro: He'll kill your entire family if you let him go." Walter ultimately kills Krazy 8, but under circumstances that he can justify as self-defense. Over time, though, Walter's definition of self-defense grows beyond any moral justification, and his reluctance to kill shrinks to almost nothing. Once you step outside the borders of morality and the law, self-interest becomes self-justifying. Indeed, this is how pragmatism unchained from moral principles simply becomes a Nietzschean will to power. In a very different context, the philosopher Bertrand Russell realized this long ago. When nations shed moral principles and put their stake solely in power and pragmatism, Russell wrote in 1909, "ironclads and Maxim guns must be the ultimate arbiters of metaphysical truth."

For the audience, the heart of the seduction of the first two seasons is that we sympathize with Walter as he is pitted against these horrible choices. In the first episode of the second season, titled "Seven Thirty-Seven," Walter and Jesse watch a drug kingpin they are supplying beat a man to death. Sitting in their car afterward, they're horrified by the spectacle and terrified by the likelihood that they will die, too, for having witnessed the murder. Walter's response is to mutter some math calculations, almost like a prayer. He's adding up his mortgage, the

home-equity line, what college will cost for his kids, etc., until he comes to the number 737,000. That's the dollar amount he needs to leave to his family to make sure they will be provided for. Once he hits that number, he's out of the business.

But the choices Walter makes have tragic consequences. The lies he needs to tell to his wife, Skyler—magnificently played by Anna Gunn—ultimately destroy his marriage. She cannot abide the deception, and when she finds out about Walter's new profession, she wants a divorce. This plotline is absolutely brutal to watch and is easily the best treatment of a family coming unglued in any television show. Ultimately, Skyler can't divorce Walter because it would mean revealing that he's a drug dealer—which would shatter her son, who worships Walter. Because of this choice, Skyler, too, finally becomes seduced into Walter's world. Personal corruption is infectious.

But by the end of the second season, Walter's cancer goes into remission. When he and his family get the news, he seems relieved, but when he retires by himself to the men's room he goes into a rage, punching the paper-towel dispenser. What the viewer has only dimly suspected, thanks to Cranston's incredibly subtle portrait, is now coming to the fore: Walter enjoys being Heisenberg.

One of the reasons he enjoys it is that, unlike the underachieving high-school chemistry teacher of his former life, Heisenberg is the best there is at something. While he could once live with the fact that his former peers have gotten rich in the private sector (off his ideas, he

tells himself), it is now a source of seething resentment. The sins of pride and envy—not greed—are the secret to Walter White's character. The arrogance of Walter's intellect, married to the bitterness of not fulfilling his potential, seduce him to the idea that he can be in control, that he can set the rules, that he is smart enough to control all of the variables in life. When his wife concocts a cover story that will allow him to get out of the business and explain his newfound wealth—he's a gambling addict who hit it big—Walter's vanity won't let him go along. He tells his son, "What is going on with me is not about some disease. It's about choices. Choices I have made. Choices I stand by."

Untethered from traditional morality, he's set adrift, believing that he can chart his own course through raw intellect alone. Now that he's cancer-free, the money is meaningless to him save as a measure of his ability and superiority. Gilligan and the other writers brilliantly draw out how envy of the success of others fuels a sense of superiority and entitlement. In one telling scene, White tells his students the (true) story of how the inventor of the synthetic diamond was rewarded by GE with a \$10 savings bond. The subtext is that Walter never got the recognition he deserved as a scientist, and he yearns to correct that as a meth cooker.

By the first half of the fifth season, Walter's transformation is near total. When offered millions to simply cash out of the drug business entirely, he rejects the offer. He explains to his partner: "You

asked me if I was in the meth business or the money business. Neither. I'm in the empire business."

The show is set in Albuquerque, N.M. (It was originally supposed to be set in California, but the tax climate made that unaffordable.) The austere desert backdrop often serves to hammer home the aloneness of the characters (Walt and Jesse are often lost in the desert with their RV meth lab). In real life, the low-hung ranch-style architecture of Albuquerque makes civilization itself seem like a recent addition to the landscape, a Potemkin village hastily erected to communicate the semblance of middle-class normalcy. Over time, that impression takes on an almost poetic stature, as the rules of society seem increasingly artificial, like cheap prefab furniture. There is a palpable sense that the seemingly humdrum exurban boredom of normal middle-class life is something one can exit simply by choosing to.

ALL this points to the inherent conservatism of *Breaking Bad*. Walt is a creature of his choices. Early in the first season, he declines a debilitating round of cancer treatments with only a marginal chance of improving his prognosis. "I just feel like I never had a choice in any of this," he explains. "I want a say, for once." As Jackson Cuidon of *Christianity Today* writes, "When you first watch the scene, not knowing the kind of person Walt is going to choose to be, it's a poignant moment. Walt wants to spend his last months with his wife on *his* own terms, rather than as a powerless and weak and hollowed-out shell of who he used to be."

But here I think Cuidon and other commentators are missing the point. When Walter says this in the first season, he means it. The problem is that, over time, he takes this desire for control over his own life and externalizes it to society. He goes from wanting a say in how he lives and dies to wanting a say in how others live and die. His response to cancer transforms him into a cancer in his family and in his community. Cuidon is entirely right that the essence of *Breaking Bad* is choice: Walter chooses to become evil.

Of course evil is seductive, telling us things we want to hear; the Devil, after all, is the Prince of Lies. But *Breaking Bad* is

NO VOODOO

No mystical sixth sense do I possess.
I hardly handle normal senses well.
No vision have I ever had of Hell.
Jesus does not drop in at my address.
My life has been one life—no more, no less,
none from the past I could revive to tell.
I have no voodoo, could not cast a spell
to save said life, in time of great distress.

And yet with you, one moment may restore
my ordinary sense, then supplement
an extra, like an amulet, when cursed.
I feel your absence at the bedroom door,
your presence a celestial event,
this common bond between us, not our first.

—JENNIFER REESER

not a religious allegory (though it could be seen as one). The lies Walter hears are not coming from the Devil, they're coming from Walter himself. (Gilligan has said that while he can believe there's no Heaven, he can't abide by the idea there's no Hell.)

An even more striking aspect of *Breaking Bad* is the omnipresent backdrop of the horrors of drug addiction. Anyone who knows firsthand how the individual choice of taking drugs does not necessarily remain contained in the individual will find much of *Breaking Bad* achingly poignant. Walter convinces himself he is just selling a product, but it is not just any product—which is something he understood before his transformation. Meth is particularly evil, ravaging not just addicts but whole communities. Proponents of drug legalization may or may not be right that the costs of the drug war exceed the benefits, but that does not diminish the fact that such drugs destroy lives. Walter becomes evil as he rationalizes away that fact.

And here is where I think Gilligan himself has it wrong. “Walt has behaved at times in what could be regarded as an evil fashion, but I don’t think he’s an evil man,” he told the website *Vulture*. “He is an extremely self-deluded man. We always say in the writers’ room, if Walter White has a true superpower, it’s not his knowledge of chemistry or his intellect, it’s his ability to lie to himself.” Okay. But what is evil if not the ability to delude yourself into believing you are the sole arbiter of what is right and wrong based on your self-interest? Freedom itself is not evil, but freedom devoid of conscience—rightly formed conscience—is very close to the definition of evil. The bully is free to do what he likes simply because he is stronger and it pleases him to do so. It does not matter that he tells himself his cruelty is warranted. Hitler, Stalin, and Pol Pot—the historical figures we use as stand-ins for metaphysical evil—all believed they were acting on their own personal definitions of the good. They didn’t feel constrained by the “slave morality” (Nietzsche’s term) of the Judeo-Christian tradition.

In season five, Walter says to Skyler, “When we do what we do for good reasons, then we’ve got nothing to worry about. There’s no better reason than family.” But by that point, this is nothing more than a motivational lie. Indeed, this

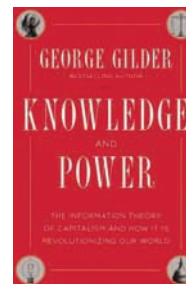
is exactly the sort of thing Tony Soprano would say. We may love the character, but does any remotely morally sane human being dispute that Tony Soprano is an evil man?

Of the many conservative themes in *Breaking Bad*, the one I appreciate most is the fragility of civilization: Preserving it requires a constant struggle. When I say “civilization,” I don’t mean just the particular swath of time and culture we call “Western Civ”; I mean families, communities, and individuals. These can be healthy only when individuals are willing to take on faith that some moral laws—whether grounded in nature, theology, or simple trial and error—are there for a good reason. As Chesterton tells us, pure reason doesn’t get humanity very far. The merely rational man will not make commitments to causes greater than his own self-interest. We need binding dogmas to constrain us even when our intellects or appetites try to seduce us to a different path. When, through the arrogance of our intellect and the promptings of our egos, we decide that we can make the rules up as we go, we invariably relearn why we need those rules. In *Breaking Bad*, there are countless, sometimes hilarious, sometimes horrifying moments where Walter is given concrete evidence that he is not smarter than the accumulated moral wisdom of civilization. He rejects these lessons as merely illustrations of the failures of others, and lies himself down a path of ever greater evil.

POETRY is magical, transporting us to a golden age without sin. Novels are different: They are of the iron age. And that is why great novels are, by nature, conservative. I don’t mean that Tolstoy would oppose Obamacare or that Steinbeck was a supply-sider. That’s not the kind of conservatism I have in mind. Long before one gets into the partisan or ideological precepts and dogmas, there is at the irreducible core of conservatism the idea that human nature is what it is. Nation-states, technologies, cultures, even religions come and go, but what remains is humanity. *Breaking Bad* is one of the great novels of our age because it grapples with the crooked timber of humanity as it is, and painfully demonstrates that, once you choose to break out of the cage of civilization, you are not so much free as lost. **NR**

Signal over Noise

JAMES V. DELONG



Knowledge and Power: The Information Theory of Capitalism and How It Is Revolutionizing Our World, by George Gilder (Regnery, 400 pp., \$27.95)

DON’T sit down with George Gilder’s *Knowledge and Power* with the idea that you are about to read a book. You are entering into an evening of rambling discussion with a thinker who is revisiting ideas that have animated him for almost half a century, as he delves more deeply into what he was trying to say all those years ago in *Microcosm* (or in the first version of *Wealth and Poverty*) or finally understands what Andy Viterbi of Qualcomm was telling him about information theory in 1993.

The work has the texture of a conversation, as threads are plucked, dropped, and found again a few chapters later. Tangents are in order, and tales from Gilder’s personal history, and an occasional rant that he just could not resist. Supply-side economics comes up, demand-siders are excoriated. The history of information theory is discussed, along with some of its broader concepts and extensions. Themes are stated but not explored in depth, often triggering a “but wait a minute . . .” reflex as some thought whizzes by.

So what is this conversation about? A simple but profound issue: the nature of information, and its central position in human experience. Gilder examines the unfortunate consequences of ignoring this centrality, particularly for politics and

Mr. DeLong is the author of Ending ‘Big SIS’ (the Special Interest State) and Renewing the American Republic.

economic policy.

The recurring focus is on economic issues, and economists as a class receive a good bit of scorn. Gilder does not paint in pale pastels. An author who disrespects Smith, Ricardo, Hayek, Keynes, Schumpeter, and Krugman all within a few pages is using a bold palette.

The book starts with a chapter called “The Need for a New Economics,” which states his main theme, that economics does not understand either the workings or the virtues of capitalism: “Economists became preoccupied with mechanical models of markets and uninterested in the willful people who inhabit them.” The economists, like other social scientists, study human beings by relying on a

power. They were trying to second-guess Paulson, who thought he was second-guessing the markets. The government was trying to figure out what the markets thought the government would think about what the markets were thinking. With no idea of what was going on, Paulson was impotent to improve the situation in any way. So he needlessly and repeatedly made it worse.

Gilder’s history as a technology writer and investor involved him deeply in the information theory developed by Claude Shannon and others in the middle part of the last century, a theory upon which the computer and telecommunications revolutions are built. That was when he realized that the concepts of information and cre-

“reconcil[e] the two impulses [by] a new economics, an economics that puts free will and innovating entrepreneurs not on the periphery but at the center of the system.”

In this view, the capitalist economy is a giant information system that provides feedback and knowledge to entrepreneurs about productive investment and creative possibility. In information theory, information is “surprise,” the unpredicted. A system full of possibilities for surprise is called “high entropy,” and a system with little such potential is “low entropy.” Message-carrying channels must be low entropy (which is to say, predictable) to allow high-entropy messages (those that carry meaning) to get through. Fiber optic

Gilder not only believes in **mind as a real entity**, he is not much interested in the material world *except* for its ability to carry information.

“heuristic simplification that leaves out creativity and mind” and that assumes a consistency of response to stimuli that precludes learning: Poke the organism in the same place and it always responds in the same way. “Intelligent entities [do not] act purposefully and willfully in the world; in general the world acts on them and through them.”

In this artificial world, surprises are upsetting. Governments that chart their policies by these models are, accordingly, upset—so they try to eliminate surprise, by adding new regulations, by macro-economic maneuvering, by targeted taxes and subsidies, and by other manipulations. Gilder repeats often that it’s because the authorities lack knowledge that they use power to try to impose artificial order. This ruins systems that need to adapt and change, and that need information about the real world to do so—information about the state of the market, the workability of business models, the values of consumers, and the feasibility of technologies.

The imposition of control by power instead of knowledge suppresses these streams of information, and the results are not pretty, or even sane. As Gilder describes the financial crisis:

The markets were not accumulating economic knowledge. They were trying to predict the exercise of governmental

activity that are essential in the tech world are missing from economic theory.

He uses as an example William Nordhaus’s work on the history of illumination, which showed that the cost of lighting in 1900 was about a tenth of one percent of its cost in 1800. The change cannot be attributed to anything except human creativity; no resources were available in 1900 that did not exist in 1800. The difference was in knowledge of how to use them.

More generally, Gilder looks at the great leap forward since 1800, as “conventional gauges of [worldwide] per capita income soared some seventeen-fold.” He cites Robert Solow’s work, which found that a conventional analysis of the impact of increases in factor productivity of capital, natural resources, and labor can account for only 20 percent of the increase. All the rest is a “residual,” which must be human creativity plus the development of institutions that allowed this creativity to flourish.

Gilder wants an economics that focuses on this residual. Why think of equilibriums, which are boring and mostly transitory? The question is how to escape equilibrium, and advance. How does society harness human diversity of knowledge to this end, when “the war between the centrifuge of knowledge and the centripetal pull of power remains the prime conflict in all economies”? We need to

cable can carry unbelievable quantities of information precisely because the glass itself is so pure that any irregularity in the signal is detectable, and thus constitutes a “surprise,” a.k.a. “information.”

For Gilder, entrepreneurial creativity is high entropy. For the messages to get through, the institutional channels of the society—such as its property-rights system, regulatory environment, tax laws, and monetary policy—must be low entropy. The more the government tries to fine-tune these, the more noise it inserts into the system, and the more difficult it becomes for the entrepreneurial messages to be discerned.

All of these thoughts would make for an interesting evening of talk, but as the night deepens, the conversation takes on a deeper tone. It is not just about economics or institutions, but about the human spirit.

Gilder is fascinated by the mind/body distinction. Materialists resolve it by interpreting everything as the result of physical processes. Consciousness, free will, and volitional action are regarded as suspect, and probably illusionary. At an extreme, tell me the position and trajectory of every particle in the universe right after the Big Bang, and I can tell you what you will order for breakfast tomorrow.

Gilder is on the other side. He not only believes in mind as a real entity, he is not much interested in the material world *except* for its ability to carry information.

Knowledge and Power is incomplete because it does not cover, except in an occasional aside, Gilder's thoughts on the connections between information theory and biology. (On this issue, see his article "Evolution and Me," NATIONAL REVIEW, July 17, 2006.) The omission is understandable—he can't cover everything, and the publisher might have shied away from a work that wandered over into the acrimonious disputes about Darwinism—but regrettable, because Gilder's views on economics and political institutions are logically connected to his thoughts about the spiritual nature of human existence. There is no information without a mind to create it, and the mind is more important than the physical carrier.

The entrepreneur of Gilderian economics is not the top-hatted capitalist of Marxist cartoons. Nor is he the *Homo economicus* of economic modeling. He is a spiritual actor expanding the possibilities of human existence and freedom. He will succeed only to the extent that he is "altruistic" in the sense that he truly understands what other people need and want.

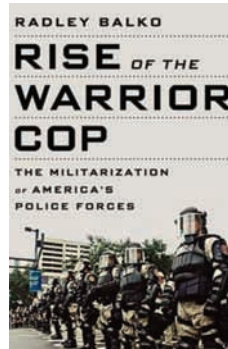
Gilder objects to the interventionist state because it clogs the communication channels of the capitalist system with noise, which will prevent such future surprises as the illumination revolution or the great post-1800 leap. But he also objects, perhaps even more vehemently, to its effect on the spiritual health of its citizens. For example, he mourns what the radical green movement has done to his beloved Silicon Valley, by triggering a "general Gadarene rush for green subsidies" and "transform[ing] venture capitalists from heroic contributors to American innovation . . . into a pack of grubby petitioners for pork."

In the end, the most important message carried by the pages of *Knowledge and Power* is that capitalism is a profoundly spiritual system. It allows and encourages people to be the best they can be, not only in serving their own interests and exercising their own talents, but in meeting the needs of others. It is responsible for the extraordinary achievements of the past two centuries.

Gilder's assertion of the need for a new economic model is also an assertion of the inextricable interconnection of our economic lives and our spiritual nature. This imperative of spiritual revival is the real message of *Knowledge and Power*, and let us hope that that signal gets through. **NR**

Watching The Watchmen

JACK DUNPHY



Rise of the Warrior Cop: The Militarization of America's Police Forces, by Radley Balko (PublicAffairs, 400 pp., \$27.99)

ONE day, early in my career with the Los Angeles Police Department, I needed to look up the telephone number for some departmental entity or another. Scanning the desk blotter on which were printed the phone numbers for the LAPD's many bureaus, divisions, and sections, I came upon this enigmatic little entry way down in one corner: "WRONG DOORS." Its purpose was a mystery to me at the time and remained so until, some years later, I began taking part in investigations targeting drug dealers. It was the phone number for the city carpentry shop, which we called when we had served a search warrant and broken down, yes, the wrong door.

In the years I spent working in drug investigations, I had occasion to call the number only once, this after relying on an inaccurate map of a public-housing project provided by the building management. The four-bedroom apartment I had described in the warrant affidavit and thought I was entering had in fact been converted into a pair of two-bedroom units, and I had chosen the wrong one. For the people in the apartment we mis-

"Jack Dunphy" is the nom de plume of a police officer with the Los Angeles Police Department.

takenly entered, it was no doubt a jarring experience. Bad enough to live next door to a drug dealer, even worse to have the police come barging into your home looking for him.

In his new book, Radley Balko brings attention to "wrong door" raids like this one, too many of which have had far more unfortunate outcomes than mine did. He chillingly presents a number of cases in which innocent people were shot and even killed by police officers who entered homes in search of drug dealers only to find they were at the wrong address. But to Balko, it is not just "wrong door" raids that are troubling. Even when targeting the correct house, he argues, police often do more harm than good, especially when they are armed and equipped like soldiers in combat.

Balko, a senior writer at *The Huffington Post*, previously worked at *Reason* magazine and the Cato Institute. His libertarian bona fides are therefore well established, and he is among the more outspoken and prolific writers advocating libertarian causes today. So, while *Rise of the Warrior Cop* is a harsh critique of the use of military techniques and equipment among civilian law-enforcement agencies, it should come as no surprise that the book offers an equally harsh examination of the "war on drugs," which has engendered much of the police militarization that Balko here exposes and seeks to reverse.

"The war on drugs is lost," this magazine famously proclaimed in 1996. "It is our judgment that the war on drugs has failed," wrote the Editors, "that it is diverting intelligent energy away from how to deal with the problem of addiction, that it is wasting our resources, and that it is encouraging civil, judicial, and penal procedures associated with police states." Balko agrees, and tells the story in detail.

During the Reagan administration, Balko writes, the war on drugs saw a sharp escalation and increased federal participation, including an expanded role for military personnel and hardware. Just as troubling to Balko is the use of civil asset forfeiture against drug dealers, a program that was ramped up under Reagan's Justice Department. "The 1981 GAO report concluded the government wasn't using forfeiture nearly enough," he writes, "and that an excellent opportu-

nity to collect revenue was going to waste. Reagan's people would take care of that." I can attest that law-enforcement decisions inspired by a quest for asset seizures, whether in the form of cash, real estate, or what have you, continue to this day, sometimes at the expense of more legitimate ends.

But it's not only Republicans and conservatives who come in for criticism here. While describing efforts within the George H. W. Bush administration to further expand the military's role in the drug war, Balko identifies Democrats who, viewed in today's light, would seem unlikely partners in the effort. "Democrats in Congress savaged [drug czar

innocuous-looking little pellets. And if the effects of crack cocaine weren't harmful enough in themselves, the gang violence that attended its proliferation was a genuine source of fear. It was not an imaginary bogeyman that people were afraid of, yet Balko all but elides this national consensus against drug use that existed at the time.

Nonetheless, I am not entirely unsympathetic to Balko's arguments. I am in complete accord with his condemnation of "no knock" search warrants as they are used against drug dealers. This kind of raid, usually carried out in the dead of night, is intended to startle suspects by means of a rapid and unannounced entry,

arrested in Santa Monica after 16 years on the run. "Of all the people who meet the criteria for a SWAT team," Balko writes, "you'd think Bulger would top the list." Instead, FBI agents created a ruse that allowed them to make the arrest without incident, a tactic Balko applauds and hopes to see more of.

True, the FBI was innovative in capturing Bulger, but the operation surely required dozens of agents to implement the ruse and conduct the surveillance it must have entailed. And just as surely there was a SWAT team at the ready somewhere nearby in case Bulger spotted the surveillance and tried to shoot it out or flee. Most police departments

Law-enforcement decisions inspired by a quest for asset seizures, whether in the form of cash, real estate, or what have you, continue to this day, sometimes at the expense of more legitimate ends.

William] Bennett and Bush's drug plan," he writes, "for not going far enough." He quotes then-senator Joe Biden as describing the Bush-Bennett plan as "not tough enough, bold enough, or imaginative enough to meet the crisis at hand." Perhaps even more surprising, Balko cites a March 1989 *Ebony* magazine profile that ran under the headline "Charles Rangel: The Front-Line General in the War on Drugs."

If it is true that the war on drugs is lost, it is nonetheless important to remember why it began. At 38, Balko is perhaps too young to recall the social upheaval of the Sixties and Seventies. Drug use, seen at the time by most Americans as a manifestation of that upheaval if not a cause of it, was regarded as shameful by nearly everyone but the users themselves. As those Biden and Rangel references indicate, there was once near-universal agreement that this so-called war was a worthy effort.

In the Eighties, when crack cocaine spread like cancer through the nation's inner cities and beyond, police were desperate to come up with methods to combat it. My career as a Los Angeles police officer began in the early days of the crack epidemic, and I saw firsthand how individuals, families, and entire neighborhoods were ravaged by those

sometimes accompanied by the use of disorienting "flash bang" grenades. But when I'm the first cop through the door on a search warrant, as I have been many times, it is in my best interest that the people inside know it is the police coming in and not some criminal looking to rip them off. As Balko points out, confusion as to who is bursting into a home at four in the morning has led to needless deaths, including those of police officers.

I also concur with the author's criticism of Drug Enforcement Administration raids on marijuana dispensaries in those states where citizens have voted to legalize the drug or endorse its use for medical purposes. California's medical-marijuana program may have devolved into a bad joke, one in which anyone can claim any malady in a two-minute session with a "doctor" and come away with a prescription for marijuana—but this is what Californians voted for, and it is not the federal government's place to protect them from their decisions, no matter how misguided.

Balko suggests some reforms for police departments, but at times he reveals his naiveté as to how police work is and ought to be conducted. He cites, for example, the FBI's capture of Boston mobster Whitey Bulger, who in 2011 was

simply do not have that kind of manpower and expertise at their disposal, and a SWAT raid is often the safest option when a violent fugitive is located. And the use of a SWAT team does not necessarily increase the likelihood of violence in a police encounter. The LAPD's SWAT team, for example, uses deadly force in less than 1 percent of its deployments.

Though Balko gives passing mention to the presence of SWAT teams within ostensibly benign federal bureaucracies, I would have liked to see him explore the use for these teams in such agencies as the Food and Drug Administration. Even the Department of Education has its own SWAT team: Why?

For all my cop's quibbles with *Rise of the Warrior Cop*, I was struck by how much I found to agree with in the book. Balko makes a compelling case that in America today there are too many SWAT teams operating with too little accountability, further exposing the country to the dangers this magazine identified in 1996. "No, America today isn't a police state," he writes in the concluding chapter. "Far from it. But it would be foolish to wait until it becomes one to get concerned." One need not be a libertarian to appreciate the warning.

NR

Film

A Death in Oakland

ROSS DOUTHAT

EARLY on New Year's Day, 2009, a fight broke out on the BART train running from San Francisco to Oakland. The transit cops arrived, pulled a group of men—young black men—from the train, and detained them on an East Bay platform. What happened next was captured by cell-phone videos taken by passengers on the train: After a lot of struggling and shouting, the officers pushed one of the young men down on his stomach to cuff him, there was some resistance and a scuffle, and then a cop pulled out his weapon and fired point-blank into the detainee's back, mortally wounding him.

The gunshot victim was Oscar Grant, a 22-year-old Oakland-area native, and his case became a cause célèbre in the Bay Area, inspiring marches, protests, riots, and then another round of the same after the shooting officer was convicted of involuntary manslaughter a year and a half later. Now it has supplied the plot for a movie, *Fruitvale Station*, whose release has coincided with another racially charged, protest-inspiring tragedy, the Trayvon Martin shooting and George Zimmerman's subsequent acquittal.

That timing has been good for the film's profile, but it's also placed perhaps more weight—cultural and political—on the movie than it should be asked to bear. Many critics have overpraised what is, in the end, a novice effort (the director, Ryan Coogler, was a USC film student when the shooting happened): raw and passionate and sometimes powerful, but hardly revelatory in its performances, writing, or direction. At the same time, the movie has taken perhaps more fire than it deserves for its compressions and inventions, and been dismissed too quickly by its detractors as agitprop.

There is an agitprop moment in *Fruitvale Station*, at the credits, when viewers are urged to seek “justice for Oscar”—presumably a reference to the possibility of a second trial, under federal civil-rights law, for the officer who pulled the trigger.

But the rest of the film doesn't play as a simplistic call to arms, hewing close enough to the facts of Grant's life and its final hour to avoid the lure of propaganda.

The movie covers a single day, Grant's last, from dawn to his post-midnight rendezvous with tragedy. As played by Michael B. Jordan, a familiar face to viewers of *The Wire* and *Friday Night Lights*, Grant comes across as an intensely well-meaning and likeable young man: We watch him make nice with his girlfriend, Sophina (Melonie Diaz); drop their daughter off at kindergarten; pick up a birthday dinner for his mother (the reliably affecting Octavia Spencer); and bounce from one friendly encounter (everyone is greeted as “brah”) to another under the warm Oakland sun. The film uses his cell-phone contact list, which pops up on screen whenever he texts or dials, to build a sense of the friendly network that surrounded him.

But even as it plays up his decency and charisma, the movie acknowledges other realities: He's making nice with Sophina because he recently cheated on her, he's floating freely around the city because he just lost his grocery-store job for chronic lateness, his network of brahs includes people to whom he's a pot dealer as well as a pal, and he's trying to be hyper-involved with his daughter to make up for the chunk of her childhood he missed while behind bars.

Where *Fruitvale Station* does stack the deck in Oscar's favor is in a few invented sequences, some meant to highlight his decency (he helps a white girl figure out her New Year's fish fry, and comforts a dying pit bull—the movie's most heavy-handed scene—after it's been struck by a car) and others meant to suggest that this New Year's could have been a turning point for him: We watch him dump a bag full of marijuana rather than sell it, talk about marrying Sophina instead of just stringing her along, and, in a chance encounter just before his death, even luck into a hook-up for a job.

But if some of this deck-stacking feels labored and unconvincing, the treatment of the shooting itself is much more grounded and plausible. The fight on the train that summons the cops isn't a random incident; it's linked directly to Grant's time in prison, and the temper that he's flashed at various moments throughout the film. The cops come across as bullying aggressors, particu-



Melonie Diaz and Michael B. Jordan in *Fruitvale Station*

larly Kevin Durand's first-responding Officer Caruso, but they're also clearly caught up in a chaotic, dangerous moment, rather than trying to turn their power to some sort of vicious, predetermined end. And the way Coogler films the gunshot itself—its suddenness, its randomness even, amid the chaotic context—and the cop's panicked reaction afterward tends, if anything, to buttress the defense's case that the officer meant to tase Grant rather than put a bullet in him.

This means that for viewers who put aside their preconceptions and don't push too hard to fit its story into an ideological frame, *Fruitvale Station* actually does justice to some of the complexities of the larger race-and-violence debate. On one hand, its honesty about the bad choices (sometimes childish, sometimes criminal) that defined Oscar Grant's life, and the essentially accidental nature of his death, tends to undercut the Al Sharpton-esque idea that young black men in America are all just hapless victims of a vast racist conspiracy.

But at the same time, the warmth and sympathy of its portrait is an important reminder—for conservatives, especially—of why cases like this one, and the Trayvon Martin tragedy, provoke so much anguish in black America: because there really are obstacles that young black men face, cycles they're too easily trapped in, and dangers they contend with that can make the American Dream's fullness seem like something permanently outside their reach. **NR**

Keeper of The Flame



RICHARD BROOKHISER

STARTING a fire is a three-step dance. Step one: As you strike a match, there is a hiss and a flash on the head as the phosphorus combusts. Call it the little bang. Step two: A warmer, slower light begins a slow pulse up the wooden stick. Step three: You touch the match to whatever it is you wish to ignite: newspaper under a grate, a gas jet on a stove top, a fuse, in the bad old days a cigar. The burial service says, Ashes to ashes, dust to dust. Starting a fire says, Heat to heat, light to light.

How did man first light fires? Cartoon cavemen did it by twirling sticks in stone sockets, though if they had really tried that they would probably be at it still. The Greeks said Prometheus stole fire from heaven and dined out on the story for the rest of his days. Most likely some curious/foolish/brave soul snatched a brand from a lightning strike. Whoever did it made history: maybe began it. Chipping that first hand tool was a biggie, and so was the wheel, but those were objects. Fire is alive. Fire shortened night and lessened fear. Around a fire there could be stories and memory. Art too. Cave painting is post-modern. Before the first daub, there had to be fires: How else could they see in the caves?

Fires star in our oldest celebrations. What is more cheerful, more neighborly, more high-spirited than a roaring fire? From Yule logs to harvest festivals, cook-outs to pep rallies, burning crosses to burnings at the stake, fires put everyone in a good mood.

One other quality of fire—a sinister one, at best an exciting frisson so long as

it exists only in thought—is that it can escape our control. It has an appetite, if not a mind of its own. If you are careless, if you turn your back, God help you. Human servants may steal your spoons. Fire can steal your home, your life, everything.

In the country I drive the same roads week after week. This is how we travel to and from the town with the bus station. This is how we get groceries and gas, mulch and U-pick produce. This is how we look at the waterfall or the white-headed cattle on the hilltop field. Without warning, a building on these ordinary routes will suddenly be blackened, as if rubbed out by an old gum eraser.

Many of the houses at the bottom of our road where it leaves the state route have hedges and flat lawns; they could be in the suburbs, if you ignore the converted barns and the man who sells bulk lubricants to truckers. One day one of those houses, a big pre-war, was simply gone. All that remained was the foundation, and a cobblestone chimney. Word was that the resident had been mixing fuel in his basement. He should have left that to the lubricant salesman. At least he still has his basement, after a fashion. That was two years ago; since then nothing has risen in the burned house's place.

More serious to me was the grease fire in my favorite diner. If you don't want to cook in the country, your options are very limited. In town there is one bar, a gas station that sells ice cream and coffee and has a few tables, and a Chinese restaurant that seems a very long way from China. We would go to the fourth option, the

diner. In summer, when the tomatoes were local, the turkey club with steak fries was quite good. The waitresses quickly learned that that was all we ever ordered. When we asked one waitress about a charm on her necklace, she said she belonged to the Bear Clan of the Seneca Indians. The placemats advertised local businesses: The arborist's ad showed a doctor inspecting the stuck-out tongue of a sad tree. The grease fire took the whole place down; all that was left was a mess of charred metal and jumbled parts of booths.

Then came bureaucracy, slower than fire but also destructive. An employee of the state posted notice that since there was on-site asbestos, cleanup would require full hazmat gear. The town supervisor is an industrious man, but a lawyer by profession; he might push hard, but he would push only according to the state's rules. He squawked, the state balked. The owner had no insurance, the town had no money for such an onerous cleanup. The fire happened last summer. During the winter holidays, some wit set up two wooden chairs and a table with a napkin dispenser and a ketchup bottle in the rubble. Room for two, no waiting! This summer perhaps the same wit tied smiley-face balloons to the junk and hung a banner, celebrating the one-year anniversary. By now I imagine all the asbestos has blown into the lungs of the neighbors or settled into the water table.

The most recent fire was just around the corner from us. There stood a little two-storey blue farm house, 19th-century with nice lines, close to the road. After it burned—a propane fire, we heard—it remained strangely intact. The frame, most of the walls, and the roof were all there, only charred and dark. After a few downpours they were soaked and dark. The detached garage survived, though the siding curled in the heat. Some peony bushes out front blossomed on schedule, unaware of all the fuss. We call it the hant house (*hant*=haunt, ghost).

Far from human habitation, there was a big fire in a state park on the ridge a few years back (a discarded cigarette caused that one). It flattened acres, leaving only the hardiest trees, yet it could not—fortunately—cross the road. Steadily the understory has come back, watched over by a few trunks. No one had to snatch a burning brand. We have our own combustion now; no problem. **NR**



The Perennial Revolution

MONARCHY is the natural order of things, which is why, as Ben Franklin grasped, the tricky bit about a republic is keeping it. Franklin didn't live to see how that panned out. He died in 1790, a year after the first inauguration, back when John Adams was proposing that George Washington be addressed as "Your Most Benign Highness." Instead, America gave a word to the world—the now-standard designation for a non-monarchical head of state: "President."

Many presidencies are monarchical in all but name—Putin is known to his subjects as "Tsar," and Mubarak was "Pharaoh"—and some are even hereditary—the Kims in North Korea, the Assads in Syria. For those citizens looking for a lighter touch from their rulers, there are Europe's non-executive presidents—the heads of state of Austria, Germany, Portugal, Italy that nobody beyond the borders can name but that seem to suit post-imperial powers in search of a quiet life: A republic is the phase that comes after dreams of national greatness have flown and the world stage has been abandoned to others.

And then there's His Royal Highness Prince George Alexander Louis of Cambridge, third in line to the thrones of the United Kingdom, Canada, Australia, Belize, Tuvalu, and most of the other prime monarchical real estate. I kept my royal-baby fever in check—name-wise, I was hoping for Prince Trayvon Carlos Danger Windsor—but I confess that, passing a TV set tuned to BBC World, I did stop to enjoy an in-depth report on how in far-flung parts of the Commonwealth many people were reacting with total indifference to the regal newborn. You'd be surprised how long the man in the street is prepared to stop and chat about how he couldn't be less interested in the new princeling.

Such are the joys monarchy affords in a democratic age: For every loyal subject enjoying a frisson of pleasure at the blessed event, there's another getting just as much pleasure bitching to his mates down the pub about what a bunch of useless parasites they are. And, unlike the president of the United States, divisive royals are a bargain. Obama's last Christmas vacation in Hawaii cost some \$7 million—or almost exactly the same as a year's air travel around the planet for the entire royal family (£4.7 million). My daughter and I chanced to be in Scotland at the same time as the Queen last summer, and went along to see her in Glasgow: Her limo had a car in front and a car behind. The royal couple got out and walked around the square greeting jubilee well-wishers. My thrilled teenybopper came within a foot of Her Majesty without having to go through a body search or a background check. Try doing that on Martha's Vineyard as the 40-car motorcade conveys President Obama to an ice-cream parlor and the surrounding streets are closed and vacuumed of all non-credentialed persons. The citizen-

executive has become His Mostly Benign Highness: a distant, all-powerful sovereign—but kindly, and generous with his food stamps, if merciless with his IRS audits.

In Fleet Street, the (small-"r") republicans of the columnar crowd advanced an argument that would have sounded bizarre a generation or three back: They attacked not so much the royal family as a citizenry stupid enough to dote on them. "The Royal Baby shows how far we've fallen back into our forelock-tugging habits," scoffed Viv Groskop in the *Independent*. Tugging his forelock was what the hatless working man once did to the local squire, but chippy republicans revived the archaism sufficiently to earn it a busy Twitter hashtag in the days around the royal birth. Surveying the "Hadrian's Wall of Kate Baby Special Editions" on every newsstand, another columnar naysayer, Grace Dent, unconsciously channeled Pauline Kael re Nixon: Nobody she knew was interested in the royal bairn. The *Guardian's* Catherine Bennett peered out of her drawing-room window to watch in horror the masses below "drool over royal and demi-royal hotness."

This is republicanism as class marker: Apparently, the only argument against an anachronistic, out-of-touch hereditary family ruling by divine right is that they're way too popular. I remember, years ago, being told by a Hampstead intellectual that the problem with the Queen was that she was too middle class. Today, for Britain's elites, monarchy is simply too, too common.

America's elites, on the other hand, are happy to drool over Barack and Michelle's neo-royal hotness. Shortly before his death, the sociologist Michael Young, the man who coined the term "meritocracy" for a satirical fantasy he wrote in 1958, wrote that Britain's Blairite meritocrats "can be insufferably smug, much more so than the people who knew they had achieved advancement not on their own merit but because they were, as somebody's son or daughter, the beneficiaries of nepotism." As Young had foreseen a half-century ago, a cult of (pseudo-)meritocracy absolves a ruling class from guilt. They assume not, as princes of old did, that they were destined to rule, but that they *deserve* to. Which is wonderfully liberating—as one sees all around, from Barack Obama's neo-monarchical selectivity on which laws he'll enforce to Anthony Weiner's industrial-scale exercising of his Tweet du seigneur. Both men have bet that the public crave Their Most Benign Hotness.

If it's any consolation to Ben Franklin, they kept it longer than you might expect. Every so often, I take my children across the Connecticut River and down to Plymouth Notch, Vt., where a citizen-president lies buried on a hardscrabble hillside under a headstone no different from the seven generations before him. But Coolidge is more alien to today's presidency than George III is.

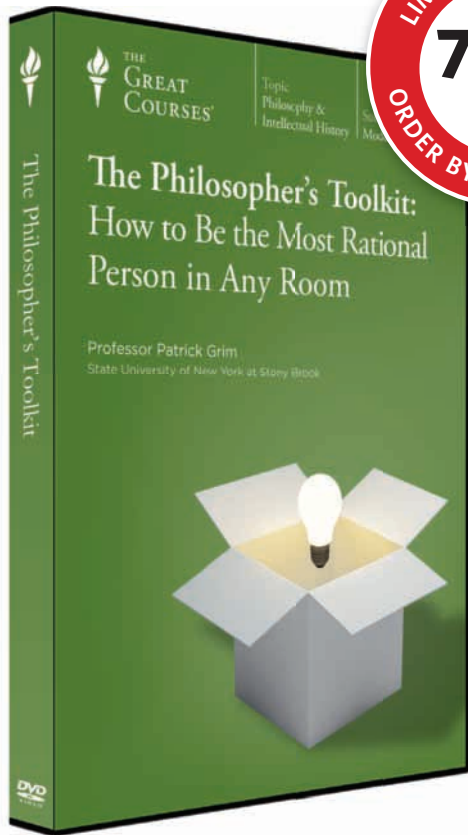
Oh, well. Maybe republican virtue will be restored in the 2016 election. Jeb vs. Hillary?

NR

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